## ARTICLE 1

FIRST ARTICLE
Submitted by: Board of Selectmen

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.

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### 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.

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### SELECTMEN'S RECOMMENDATION

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on March 27, 2012, on the vote offered by the Advisory Committee.

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### 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.

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.

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.

Some members of the Advisory Committee believe annual consideration of this article distracts Town Meeting's (and the Advisory Committee's) attention from the other pending, and presumably binding and more pressing, Warrant Articles. However, the majority of the Committee believes this article has a place on the Annual Town Meeting Warrant as a nod to Brookline's past. Additionally, one member of the Committee commented that appointing two Measurers of Wood and Bark may not be as "old fashioned" as it first appears, as there might be a place for these individuals to assist in preventing the spread of the Asian Long Horn Beatle in Brookline, and Massachusetts.

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
Submitted by: Human Resources

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

HUMAN RESOURCES OFFICE
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Sandra A. DeBow, Director
Human Resources Office

March 16, 2012

To: Board of Selectmen

From: Sandra DeBow, Director
Human Resources Office

**Brookline Fire, Local 950 I.A.F.F.,**

**Summary**: The Town of Brookline and Fire Union, Local 950 I.A.F.F., came to a tentative agreement in mid-January 2012. The Agreement was approved by the Board of Selectmen on January 31, 2012 and ratified by the Union on or about February 21, 2012.

The negotiations, which began in July 2009, were made more challenging by successive changes in representatives at the table, including three Fire Chiefs, three union

Presidents, two Town Administrators, and two different union attorneys serving as the union's chief negotiator.

The final contract centers around three major items, wages, modified duty and a new senior step. The modified duty provision will permit the Fire Chief to assign employees to modified duty when a firefighter is unable to perform full duties due to illness or an injury. This provision, not previously available to the Fire Chief, has been utilized for years by the Police Chief to help reduce overtime costs and loss of productivity that results from medical leaves. There was also a modest increase to the EMT stipend. **The overall cost of the three-year contract is approximately 4.4%.**

**Description:** The contract is for a three-year period commencing on July 1, 2009 through June 30, 2012. Wages were in line with other collective bargaining agreements settled during the same years, with a lowered FY 11 amount to offset the cost of the new Senior Step.

| | | |
|---|---|---|
| **Wages** | July 1, 2009 | 0.0% increase |
| | July 1, 2010 | 1.0% increase |
| | July 1, 2011 | 1.5% increase |

**Modified Duty** Town has sought to add a modified duty provision to the Fire Union contract for years which the Fire Union had adamantly rejected. After much negotiation the Town and Union was able to reach agreement that will permit the Chief to order firefighters to work modified duty. Priority is given to firefighters out injured on duty, but firefighters on sick leave may also be assigned to modified duty assignments.

**Senior Step** the Town and Union agreed to add a new senior step at 5% for employees in the bargaining unit for 20 or more years. This Senior Step recognizes the contributions have made and the experience these veteran firefighters make to the Brookline Fire Department.

**Defibrillator Pay** the Town and Union agreed to add the $400 per year (current rate) to base pay effective July, 1, 2010.

**EMT Pay** the Town and Union agreed to increase the EMT pay from 5.625% of a maximum firefighter's salary to 6%.

**Other Provisions**

Education – the parties agreed to add "registered nurse" to the list of degree programs to which tuition reimbursement will apply. Also, going forward firefighters will receive education incentive only for those courses that are NEASC accredited.

Mandatory Reporting - Firefighters are now required to notify the Chief within 24 hours or prior to the start of the employee's next tour of duty that the employee's driver's license was suspended or revoked or when the employee is under a court order that would or could limit the employee in the performance of his duties.

Sick Leave Reduction Incentive Plan - The parties added a sick leave reduction incentive plan modeled after the plan in the police department. When the Fire Department average is 4.0 tours of sick leave or fewer in a calendar year, firefighters who have used no sick leave tours or one tour may cash in 2 tours of sick leave at 50% of the firefighter's base pay for the day. Those who use 2-3 tours of sick leave may cash in one day of sick leave at 50% of base pay.

Civilian Fire Prevention Clerk - The Fire Union agreed to remove/share certain bargaining unit work in the fire prevention office, thereby opening the path for the town to use a civilian clerk in the fire prevention office.

| ITEM | FY10 | FY11 | FY12 | TOTAL | |
|---|---|---|---|---|---|
| 7/1/2009 - 0% | 0 | 0 | 0 | **0** | |
| 7/1/2010 - 1% | | 106,799 | 106,799 | **213,598** | |
| 7/1/2011 - 1.5% | | | 161,801 | **161,801** | |
| Senior FF Pay Rate | | 202,196 | 202,196 | **404,392** | > New max step @ +5% from current max for those with 20 yrs |
| EMT Pay | | 30,000 | 30,000 | **60,000** | > Increase to 6% from 5.625% |
| Defib in Base | | 17,000 | 17,000 | **34,000** | > Put the $400 stipend into base |
| Savings from Light Duty | | | (50,000) | **(50,000)** | |
| | | | | | |
| **TOTAL ROLL-OUT COSTS OF 3-YEAR PERIOD** | **0** | **355,995** | **467,796** | **873,791** | |

| | | | | |
|---|---|---|---|---|
| Each 1% = | 106,799 | 106,799 | 108,401 | |
| New Wages - $ = | 0 | 355,995 | 111,801 | |
| New Wages - % = | 0.0% | 3.3% | 1.0% | **4.4%** |

| | | | | |
|---|---|---|---|---|
| Wages on Base - $ = | 0 | 355,995 | 111,801 | |
| Wages on Base - % = | 0.0% | 3.3% | 1.0% | **4.4%** |

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## SELECTMEN'S RECOMMENDATION

As detailed in the Human Resource Director's memo, the Town has reached an agreement with the International Association of Firefighters (I.A.F.F), Local 950. The three-year contract, which runs from July 1, 2009 (FY10) through June 30, 2012 (FY12), calls for no Cost of Living Adjustment (COLA) in FY10, a 1% in F11, and a 1.5% in FY12. In FY11, the EMT Pay is increased from 5.625% of a maximum firefighters' salary to 6% and the Defib stipend is rolled into the base. Lastly, a new Senior Firefighter pay rate is established for those firefighters who have been members of the bargaining unit for at least 20 years. That pay rate will be a 5% increase from the current maximum pay for each rank (e.g., Firefighter, Lieutenant, Captain, Deputy Chief). These items represent a 4.8% increase going forward on general wages.

Also included in the agreement are two items that will help improve overall leave utilization: modified duty and a sick leave reduction incentive plan.

For years, the Town has sought to add a modified duty provision to the Fire Union contract, something the Police Department has had for many years. Modified duty allows injured workers to return to work performing physically appropriate modified duties in relationship to their functional capabilities. The Fire Union had continually rejected such a program. However, the Town and Union were able to reach an agreement that will allow the Fire Chief to order firefighters to work modified duty. This will enable the Chief to have firefighters who are not 100% physically able to perform the essential functions of a firefighter perform less physically demanding work, such as inspections, rather than remain out of work.

The sick leave reduction incentive plan is modeled after the plan in the Police Department. If the Fire Department averages 4.0 tours (24 hour shifts) of sick leave or fewer in a calendar year, firefighters who have used no sick leave tours or one tour will be able to cash in two tours of sick leave at 50% of the firefighter's base pay for the day; those who use 2-3 tours of sick leave may cash in one day of sick leave at 50% of base pay.

The Selectmen recommend FAVORABLE ACTION on the proposed contract, as it provides increased wages to the hard working men and women of the Brookline Fire Department within the Town's ability to pay, and includes items that should help reduce overtime costs. By a vote of 5-0 taken on March 27, 2012, 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 agreement that commences on July 1, 2009 and expires on June 30, 2012:

Local 950 of the International Association of Fire Fighters

all as set forth in the report of Sandra DeBow, Director of Human Resources, dated March 16, 2012, which report is incorporated herein by reference.

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ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
After prolonged negotiations the Town of Brookline came to a tentative agreement with Fire Union, Local 950 I.A.F.F. which covers the three year period from July 1, 2009 through June 30 2012. The agreement was approved by the Board of Selectmen and ratified by the Union. The negotiations were complicated by changes in bargaining

representation. During the negotiations the Town of Brookline had two Town Administrators and three Fire Chiefs; there were two union Presidents and two different attorneys negotiating for the union.

DISCUSSION:
The overall cost of the three-year contract is approximately 4.4%. This number includes wage increases of 0.0% on July 1, 2009; 1.0% on July 1, 2010 and 1.5% on July 1, 2011 and the addition of a new "Senior Step" which would add 5% to the salary of employees in the bargaining unit who have worked in the bargaining unit for 20 or more years. Approximately 46 of the 161 employees of the Fire Department are eligible for the Senior Step increase. The contract also includes incentive payments of $400. per year for firefighters who are trained to use a defibrillator and an small increase from 5.625% 6% of salary for firefighters who are certified as EMT's.

Other important sections of the agreement include a provision for modified duty for firefights out with injuries or on extended sick leave who are not ready to return to the fire station but can perform light duty such as administrative tasks. There is also a sick leave reduction incentive plan modeled after the plan accepted by the police department; mandatory reporting when a employee of the Department has his or her driver's license revoked or when they are subject to a court order that could limit the performance of their duties.

RECOMMENDATION:
The Advisory Committee recommends that the Town fund the Agreement by a unanimous vote of 18 to 0.

***XXX***

ARTICLE 2

# TOWN of BROOKLINE
## Massachusetts

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

Sandra A. DeBow, Director
Human Resources Office

May 12, 2012

To: Board of Selectmen

From: Sandra DeBow, Director
Human Resources Office

Re: Warrant, Funding of Police Contract

On April 2, 2012, the Brookline Police Union, Local 1959, and the Town of came to a tentative agreement regarding wages for Fiscal Year 2011. The Agreement was approved by the Board of Selectmen on April 24, 2012 and ratified by the Union on or about May 14, 2012. The compensation provisions of this contract are in line with the other contracts that had previously been settled for Fiscal Year 2011.

The Agreement covers a one-year period, July 1, 2010 to June 30, 2011, and satisfies the Town's obligation to bargain over a re-opener wage package with the Police Union who had agreed to a 0% wage increase for FY11. In that Agreement, the parties agreed to re-negotiate the FY 11 wages if the Town entered into the state's Group Insurance Commission, which it did on July 1, 2010. The parties agreed to a 1.5% cost of living wage increase, which is the same increase received by the other Town unions for that fiscal year. The overall cost of the one-year contract is 1.5% or $165,678.00.

Under this agreement the Town also agreed to change the hour structure for certain Road details that obstruct the public roadways and the Town also gains new controls on sick leave misuse by limiting when details and overtime are permitted following sick or family sick leave.

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## BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

As detailed in the Human Resource Director's memo, the Town has reached an agreement with the Brookline Police Union, Local 1959. The one-year contract, which runs from July 1, 2010 through June 30, 2011 (FY11), calls for a Cost of Living Adjustment (COLA) in FY11 of 1.5%. The agreement satisfies the Town's obligation to bargain over a re-opener wage package with the union, which had agreed to a 0% wage increase for FY11. The re-opener called for the parties to re-negotiate the FY 11 wages if the Town entered into the Group Insurance Commission (GIC), which it did on July 1, 2010. The 1.5% for FY11 mirrors the increase given other unions so the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 15, 2012, on the following motion:

VOTED: To approve and fund by an appropriation, provided for in the FY2011 (Item #21) budget, for the cost items in the following collective bargaining agreement that commences on July 1, 2010 and expires on June 30, 2011:

Brookline Police Union, Local 1959

all as set forth in the report of Sandra DeBow, Director of Human Resources, dated May 12, 2012, which report is incorporated herein by reference.

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## ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
The Police Union (Local 1959) has been working under a previously ratified contract covering FY'09, '10 and '11. As part of that agreement, the Union accepted a 0% wage increase in FY'11 with the understanding that, should the Town join the GIC, FY'11 would be re-opened for negotiation.

As we know, the Town joined the GIC in 2010. The renegotiated agreement that Town Meeting is now being asked to consider covers FY'11 only.

DISCUSSION:
This contract covers the period from July 1, 2010 to June 30, 2011 (FY'11). The agreement includes a cost of living increase of 1.5% and is in line with increases received by other bargaining units for that same period. The overall cost of this one-year contract is $165.7K.

The original contract was entered in good faith by both the Town and Local 1959 with the agreement to renegotiate FY'11. As part of renegotiating, the union members receive

a cost of living increase and some benefit with regards to certain road details. The Town gains more oversight over details including changes in detail assignments and overtime permitted after sick-time use. It is hoped that this provision will provide the Town and Police Department with a little more control over sick-time usage in general.

RECOMMENDATION:
The leadership of Local 1959 and the Town have worked collaboratively and productively to finalize the contract before us.

The Advisory Committee unanimously, 17-0, recommends FAVORABLE ACTION on the motion offered by the Selectmen.

## ARTICLE 3

### THIRD ARTICLE

Submitted by: Treasurer/Collector

To see if the Town will authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2013 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

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### 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.

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### 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 FY2013 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 27, 2012, 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 FY2013 in accordance with General Laws Chapter 44, Section 53F.

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Warrant Article 3 seeks Town Meeting's approval to authorize the Town Treasurer to enter into Compensating Balance Agreements in FY13.

Since 1985, state law has permitted 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 must agree to maintain a specified level of deposits and forego interest.

State law prohibits the Town's treasurer from entering into a compensating balance agreement without authorization from Town Meeting. 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 second time in the tenure of Mr. Cirillo, used the annually-approved authority to enter into a compensating balance arrangement during the current fiscal year.

DISCUSSION:
During previous appearances before the Advisory Committee, Mr. Cirillo has noted his long-standing predisposition against compensating balance arrangements. Prior to FY11, he supported the annual Town Meeting reauthorization so the Town could more effectively "shop" Brookline's business 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 FY11, 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.

Starting in FY11, however, the Town entered into a compensating balance agreement 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 has on several occasions started that he is pleased with the agreement that still remains in force with the same local bank.

In light of ever increasing bank service charges, historically low interest rates, the success the Town has had in utilizing the authorization to enter into compensating balance agreements proposed by this article, and Town Meeting's history of annually granting authorization to enter into these types of agreements, the Advisory Committee felt comfortable recommending favorable action on this article.

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

**XXX**

## ARTICLE 4

FOURTH ARTICLE
Submitted by: Board of Selectmen

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, or act on anything relative thereto.

### PETITIONER'S ARTICLE DESCRIPTION

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

### SELECTMEN'S RECOMMENDATION

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

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

The Selectmen recommend NO ACTION, by a vote of 5-0 taken on March 27, 2012.

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### ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This article is annually submitted by the Board of Selectmen to close out any Special Appropriations and/or rescind any unneeded Bond Authorizations.

DISCUSSION:
No motion is being made under this Article.

RECOMMENDATION:
By a vote of 21 in favor and none opposed, the Advisory Committee recommends NO ACTION on Warrant Article 4.

**XXX**

**Available Budget Report - Capital Funds (Bond funded) for Fiscal Year 2012 as of 5/1/12**

| | | Revised Budget | YTD Expended | YTD Encumbered | Available | Status |
|---|---|---|---|---|---|---|
| C141 | DRISCOLL SCHOOL HVAC EQUIP | 3,080 | 3,034 | 0 | 46 | Complete; will be closed out on 6/30/12 |
| C142 | PUTTERHAM MEADOWS GOLF/CLUBHSE | 1,286,891 | 166,878 | 33,276 | 1,086,737 | On-going work including drainage, bunkers, and cart paths |
| C154 | TOWN HALL RENOVATIONS | 1,740 | 1,733 | 0 | 7 | Complete; will be closed out on 6/30/12 |
| C164 | TOWN HALL/MAIN LIBRARY GARAGE | 689,803 | 340,113 | 81,300 | 268,390 | On-going project; phase 3 set for Summer, 2014 |
| C165 | RUNKLE SCHOOL REN/ADD | 24,632,222 | 12,486,595 | 8,567,113 | 3,578,513 | On-going |
| C167 | FY11 TOWN HALL/LIBRARY GARAGE | 950,000 | 0 | 0 | 950,000 | On-going project; phase 3 set for Summer, 2014 |
| C168 | HEATH SCHOOL ADDITION | 8,500,000 | 2,776,282 | 4,212,041 | 1,511,678 | On-going |
| | **BUILDING CAPITAL** | **36,063,735** | **15,774,635** | **12,893,730** | **7,395,371** | |
| C144 | WASTEWATER SYSTEM IMPROVEMENTS | 177,336 | 47,383 | 15,332 | 114,621 | Study underway in Cleveland Circle and Eliot Street area for system improvements this summer |
| C150 | MUDDY RIVER RESTORATION | 745,000 | 0 | 0 | 745,000 | Phase I out to bid; construction scheduled to start in 2012 |
| C152 | STORM DRAIN IMPROVEMENTS | 4,551 | 4,551 | 0 | 0 | Complete |
| C157 | NEWTON ST LANDFILL | 46,789 | 0 | 0 | 46,789 | To be used to complete transfer station improvements |
| C158 | WASTEWATER SYSTEM IMPROVEMENTS | 5,241,319 | 253,144 | 377,516 | 4,610,659 | See C144 |
| C160 | RESERVOIR AT FISHER HILL | 1,035,197 | 151,519 | 293,477 | 590,201 | Purchase Complete; design development/construction bid document phase underway |
| C166 | CARLTON ST FOOTBRIDGE RESTORATION | 1,400,000 | 0 | 0 | 1,400,000 | Tracking application for MaDOT Transportation Enhancement funds |
| C169 | STORM DRAIN IMPROVEMENTS | 500,000 | 231,555 | 11,038 | 257,407 | Illicit connection investigation and removal planned for Fall, 2012 |
| C170 | WATER MAIN IMPROVEMENTS | 1,000,000 | 55,296 | 49,804 | 894,900 | Project under design for June, 2012 construction start |
| | **DPW CAPITAL** | **10,150,192** | **743,447** | **747,167** | **8,659,578** | |
| | **TOTAL** | **46,213,927** | **16,518,082** | **13,640,897** | **16,054,949** | |

**Available Budget Report - Special Warrant Articles (Revenue-Financed) for Fiscal Year 2012 as of 5/1/12**

| Account | Account Name | Revised Budget | YTD Expended | YTD Encumbered | Available Balance | Comment |
|---|---|---|---|---|---|---|
| K016 | IT HARDWARE-SOFTWARE (MUNIS) | 12,676 | 0 | 12,676 | 0 | To be used for MUNIS payroll implementation |
| K017 | FURNITURE,FIXTURES,EQUIPMENT | 5,080 | 0 | 1,363 | 3,717 | To be expended by 9/1/12 |
| K018 | SCHOOL FURNITURE UPGRADES | 25,000 | 25,000 | 0 | 0 | Complete |
| | **Sub-Total Finance Dept** | **42,756** | **25,000** | **14,039** | **3,717** | |
| K084 | GATEWAY EAST PROJECT | 37,520 | 24,262 | 13,258 | 0 | Expected to be spent by 6/30/12 as part of the overall design budget |
| K100 | COMMERCIAL AREA IMPROVEMENTS | 50,000 | 0 | 0 | 50,000 | To be expended by 12/31/12 |
| | **Sub-Total Dept of Planning & Community Development** | **87,520** | **24,262** | **13,258** | **50,000** | |
| K016 | IT HARDWARE-SOFTWARE | 357,001 | 294,100 | 32,603 | 30,297 | To be expended by 9/1/12 |
| K111 | SCHOOL INTERCOM SYSTEM REPLACEMENT | 50,000 | 0 | 0 | 50,000 | To be expended, along with FY13 CIP funds, during June-Aug, 2012 |
| | **Sub-Total Information Technology Dept** | **407,001** | **294,100** | **32,603** | **80,297** | |
| K008 | BULLET PROOF VESTS | 26,527 | 20,903 | 0 | 5,624 | To be expended during FY13 |
| | **Sub-Total Police Dept** | **26,527** | **20,903** | **0** | **5,624** | |
| K009 | FIRE APPARATUS REFURBISHING | 50,000 | 40,142 | 4,422 | 5,435 | Work to be completed during FY13 |
| | **Sub-Total Fire Dept** | **50,000** | **40,142** | **4,422** | **5,435** | |
| K002 | ENERGY CONSERVATION | 125,996 | 89,357 | 3,300 | 33,339 | On-going |
| K010 | ENERGY MANAGEMENT SYSTEMS | 75,000 | 75,000 | 0 | 0 | Complete |
| K022 | TOWN-SCHOOL SECURITY-LIFE SAFETY | 57,661 | 54,084 | 3,000 | 577 | On-going |
| K024 | PUTTERHAM LIBRARY HVAC UPGRADE | 2,350 | 2,350 | 0 | 0 | Complete |
| K029 | BLDG DEPT MAINT. CRAFTS. GARAGE / PARKS FACILITY FEAS STUDY | 40,000 | 9,650 | 10,350 | 20,000 | Study underway |
| K033 | ASBESTOS REMOVAL | 3,233 | 3,233 | 0 | 0 | Complete |
| K036 | LINCOLN SCHOOL SURFACE REPAIRS | 100,000 | 58 | 26,850 | 73,092 | Plans and specs being developed |
| K037 | MAIN LIBRARY INTERIOR REPAIRS | 131,955 | 43,940 | 88,015 | 0 | To be complete in August, 2012 |
| K038 | PIERCE SCHOOL AUDITORIUM | 803,857 | 46,769 | 16,000 | 741,089 | On-going; seeking additional funding under Article 7 |
| K040 | PUTTERHAM LIBRARY | 913 | 913 | 0 | 0 | Complete |
| K041 | RUNKLE SCHOOL FEASIBILITY AND DESIGN | 275 | 0 | 275 | 0 | Complete |
| K042 | CLASSROOM CAPACITY EXPANSION | 457,585 | 426,112 | 26,597 | 4,876 | On-going |
| K044 | RUNKLE-DEVOTION STUDY | 100,000 | 16,700 | 83,300 | 0 | Devotion Scope Study underway |
| K045 | TOWN HALL RENOVATIONS | 137,263 | 105,766 | 31,454 | 43 | Encumbrances complete project |
| K046 | TOWN HALL/MAIN LIBRARY GARAGE REPAIRS | 827,335 | 827,335 | 0 | 0 | Phases 1 and 2 completed |
| K047 | TOWN/SCHOOL FACILITY ROOF REPAIR | 548,052 | 81,625 | 22,304 | 444,123 | On-going |
| K050 | ADA RENOVATIONS | 79,366 | 38,122 | 41,116 | 128 | On-going |
| K075 | HEATH SCHOOL FEASIBILITY AND DESIGN | 46,401 | 31,180 | 45 | 15,176 | Complete; unspent balance to be closed by 6/30/12 |
| K098 | FIRE STATION RENOVATIONS | 625,000 | 3,664 | 0 | 621,336 | Underway |
| K099 | SENIOR CENTER RE-CARPETING | 110,000 | 0 | 89,588 | 20,412 | To be completed in June, 2012 |
| K108 | TOWN/SCHOOL HAZARDOUS MATERIAL REMOVAL | 60,000 | 41,680 | 5,965 | 12,355 | On-going |
| K109 | TOWN/SCHOOL BUILDINGS ELEVATOR | 25,000 | 6,999 | 0 | 18,001 | On-going |
| K110 | TOWN/SCHOOL BUILDINGS ENVELOPE REPAIRS | 250,000 | 15,813 | 9,187 | 225,000 | On-going |
| K112 | UNIFIED ARTS BUILDING (UAB) REPAIRS (DESIGN) | 130,000 | 0 | 0 | 130,000 | Plans and specs being developed |
| | **Sub-Total Building Dept** | **4,737,242** | **1,920,349** | **457,346** | **2,359,548** | |
| K019 | LINCOLN SCHOOL/KENNARD HOUSE | 250,000 | 0 | 0 | 250,000 | Bidding wall repair in April, 2012 |
| K031 | PARKING LOTS REHABILITATION | 67,541 | 0 | 0 | 67,541 | Design underway for rehab of Webster St. lot |
| K039 | NEWTON ST GUARDRAIL | 35,000 | 32,000 | 0 | 3,000 | Remaining funds will complete project |
| K048 | TRANSFER STATION REHABILITION | 300 | 300 | 0 | 0 | Complete |
| K051 | TREE MANAGEMENT | 275,485 | 199,875 | 42,186 | 33,423 | Removals in process; planting scheduled for Spring, 2012 |
| K052 | BICYCLE ACCESS IMPROVEMENTS | 73,040 | 0 | 7,655 | 65,385 | Contract for pavement markings bidding in May, 2012 |
| K053 | PAVEMENT OF FIRE TRAINING AREA | 30,000 | 0 | 0 | 30,000 | Pavement resurfacing this Summer |
| K054 | STREET LIGHTING REPLACEMENT | 172,559 | 1,134 | 9,168 | 162,256 | Design for new lights on Harvard St ( Beacon to Stedman ) Fall, 2012 |
| K055 | CARLETON STREET FOOTBRIDGE | 85,186 | 0 | 0 | 85,186 | Tracking MaDOT Transportation Enhancement application |
| K056 | SIDEWALK IMPROVEMENTS | 502,924 | 71,046 | 44,741 | 387,137 | On-going |

| | | | | | | |
|---|---|---|---|---|---|---|
| K057 | CHESTNUT ST DRAIN/WILLOW POND | 44,765 | 0 | 130 | 44,635 | Waiting for Muddy River project to remove sediments |
| K058 | STREET REHABILITATION | 4,260,244 | 1,182,822 | 1,222,165 | 1,855,258 | On-going |
| K059 | COOLIDGE CORNER LIBRARY DRIVEWAY | 18,443 | 18,443 | 0 | 0 | Complete |
| K060 | NEWTON ST LANDFILL SITE IMPROVEMENTS | 520,426 | 14,740 | 88,894 | 416,791 | On-going close out process; $380K of the balance being reappropriated in FY13 CIP for Classroom Capacity |
| K062 | DANE PARK IMPROVEMENTS | 29,151 | 0 | 0 | 29,151 | Interpretive and wayfinding signage in process |
| K065 | RIVERWAY PARK IMPROVEMENT | 86,369 | 0 | 0 | 86,369 | Funding on hold for Muddy River project |
| K066 | PLAYGROUND,FENCE,FIELD, EQUIPMENT | 379,098 | 212,405 | 143,134 | 23,559 | In progress |
| K067 | PATHWAY RECONSTRUCTION | 122,483 | 8,793 | 0 | 113,690 | Improvements to Addington Path in Fall, 2012 |
| K068 | OLMSTED PARK IMPROVEMENTS | 38,268 | 9,307 | 9,937 | 19,024 | In progress |
| K070 | LARZ ANDERSON PARK (RETAINING WALL) | 50,000 | 0 | 0 | 50,000 | Design complete; bid in Summer, 2012 |
| K071 | LOST POND CONSERVATION AREA IMPROVEMENTS | 48,997 | 0 | 0 | 48,997 | Interpretive and wayfinding signage in process |
| K073 | TOWN-SCHOOL GROUNDS REHAB | 272,782 | 55,090 | 77,381 | 140,311 | In progress |
| K077 | HEMLOCK TREE ASSESS/REMOVAL | 7,812 | 0 | 0 | 7,812 | Management in process |
| K078 | MUDDY RIVER REMEDIATION | 1,370,170 | 0 | 0 | 1,370,170 | Phase I to commence in 2012 |
| K080 | PARK LIGHTING UPGRADE | 92,282 | 11,441 | 0 | 80,841 | In progress |
| K082 | WINTHROP SQ/MINOT ROSE GARDEN | 7,000 | 7,000 | 0 | 0 | Complete |
| K083 | TRAFFIC CALMING | 91,732 | 57,140 | 10,741 | 23,851 | On-going |
| K085 | HORACE JAMES CIRCLE TRAFFIC IMPROVEMENTS | 149,959 | 0 | 0 | 149,959 | Waiting for comments from DCR |
| K087 | MODIFY TRAFFIC SIGNAL-FIRE STATION 6 | 43,030 | 0 | 43,030 | 0 | Project 75% complete |
| K088 | MOUNTFORT ST TRAFFIC SIGNAL | 114,663 | 8,225 | 938 | 105,500 | Coordinating with MaDOT's reconstr. of St. Mary's St. bridge project |
| K089 | NEWTON ST/W. ROXBURY PKWY TRAFFIC IMPROVEMENTS | 147,900 | 0 | 0 | 147,900 | Waiting for comments from DCR. |
| K090 | PEDESTRIAN ACCESS IMPROVEMENTS (VILLAGE SQUARE) | 45,000 | 0 | 45,000 | 0 | Project underway (part of Village Sq. Project) |
| K092 | WASHINGTON ST./SCHOOL ST./CYPRESS ST. TRAFFIC SIGNAL | 103,000 | 0 | 0 | 103,000 | Existing conditions survey complete; design to be done in-house |
| K093 | WATER METER REPLACEMENT | 30,763 | 6,159 | 1,598 | 23,006 | Retrofit of Town buildings with new meters to be completed in FY2013 |
| K096 | PARKING METERS | 22,549 | 7,535 | 1,116 | 13,898 | Balance to be used as part of parking meter enhancements |
| K097 | LANDFILL SETTLEMENTS | 433,110 | 0 | 0 | 433,110 | On-going |
| K101 | MUNICIPAL SERVICE CENTER FLOOR REPAIRS | 25,000 | 0 | 0 | 25,000 | Remedial work on the garage floor to be done in Summer, 2012 |
| K102 | BILLY WARD PLAYGROUND | 630,000 | 681 | 419 | 628,900 | Construction in 2012 |
| K103 | CLARK PLAYGROUND | 510,000 | 0 | 509,761 | 239 | Construction in 2012 |
| K104 | WALDSTEIN PLAYGROUND (DESIGN) | 80,000 | 129 | 0 | 79,871 | Design development underway |
| K105 | WARREN FIELD/PLAYGROUND (DESIGN) | 60,000 | 460 | 0 | 59,540 | Design development underway |
| | **Sub-Total DPW** | **11,327,029** | **1,904,725** | **2,257,994** | **7,164,311** | |
| K015 | RFID (RADIO FREQUENCY IDENTIFICATION) SYSTEM | 97,751 | 27,029 | 1,600 | 69,122 | Continue to monitor RFID product development, including book sorting equipment; expect to use funds in FY13 |
| | **Sub-Total Library** | **97,751** | **27,029** | **1,600** | **69,122** | |
| K106 | EVELYN KIRRANE AQUATIC CTR (UV FILTER) | 50,000 | 50,000 | 0 | 0 | Complete |
| K107 | SKATING RINK (PAVILION FLOOR) | 30,000 | 30,000 | 0 | 0 | Complete |
| | **Sub-Total Recreation** | **80,000** | **80,000** | **0** | **0** | |
| | **GRAND TOTAL** | **16,855,826** | **4,336,510** | **2,781,261** | **9,738,053** | |

## ARTICLE 5

FIFTH ARTICLE
Submitted by: Board of Selectmen

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 March 27, 2012, on Article 5.

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### ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This article is annually submitted by the Board of Selectmen to authorize the payment of any unpaid bills from a prior fiscal year.

DISCUSSION:
No motion is being made under this Article.

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

***XXX***

## ARTICLE 6

SIXTH ARTICLE
Submitted by: Board of Assessors

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2013 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 FY2013 is approximately $57,175 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, and the blind and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY1989. The estimated cost for FY2013 is approximately $57,175 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, which are recommended by the Board of Assessors:

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

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on March 27, 2012, on the following vote:

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2013 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:
Passage of Warrant Article 6 would allow the Town to continue its current practice of increasing state mandated property tax exemptions for several classes of taxpayers.

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:

| **Eligible Tax Exemption Recipients** | **Section of State Law (M.G.L. Ch. 59 §5) Allowing the Exemption** | **Default Exemption** | **Brookline Exemption (If Article 6 is Approved)** |
|---|---|---|---|
| Surviving Spouse | 17D | $175 | $350 |
| Veteran (10% disability) | 22 | $400 | $800 |
| Veteran (loss of one hand, foot, or eye) | 22A | $750 | $1,500 |
| Veteran (loss of both hands, feet, or eyes) | 22B | $1,250 | $2,500 |
| Veteran (who by reason of disability has received assistance for "specialty adapted housing") | 22C | $1,500 | $3,000 |
| Surviving Spouse of Killed or Missing in Action Soldier, Sailor or Member of National Guard | 22D | $250 | $500 |

| | | | |
|---|---|---|---|
| 100% Disabled Veteran | 22E | $1,000 | $2,000 |
| Blind | 37A | $500 | $1,000 |
| Elderly (70+ years) | 41C | $500 | $1,000 |

(Several of 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 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 requires annual re-authorization. Since 1989, Town Meeting has always 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. $57,175 in FY 2013; by contrast, the exemptions cost the Town approx. $55,000, $57,000 and $66,500 in FY 2012, FY 2011 and FY 2010, respectively. The general downward trend reflects the exemption amounts' being constant while the number of eligible taxpayers has declined because of deaths and other demographic trends. Mr. McCabe indicated that 135 people took advantage of these exceptions in FY12. The costs are debited from a budgeted 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. Mr. McCabe continues his efforts to publicize and explain the exemptions Article 6 authorizes.

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

**XXX**

## ARTICLE 7

### SEVENTH ARTICLE

Submitted by: Board of Selectmen

To see if the Town will:

(A) Raise and appropriate or appropriate from available funds additional funds to the various accounts in the fiscal year 2012 budget or transfer funds between said accounts;

(B) Appropriate a sum of money, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for renovations to the auditorium at the Pierce School.

(C) And determine whether such appropriations shall be raised by taxation, transferred from available funds, provided by borrowing or provided by any combination of the foregoing; 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 and aid from both federal and state sources and agencies for any of the purposes aforesaid.

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 (FY12) budget. Also included is additional funding for the Pierce School Auditorium project, which is required due to the bids coming in over budget.

### SELECTMEN'S RECOMMENDATION

There are no amendments to the FY12 operating budget. However, Article 7 includes a request for additional funding for the Pierce School Auditorium project, which was originally funded at $75,000 for design at the 2010 Annual Town Meeting (FY11) and $750,000 for construction at the 2011 Annual Town Meeting (FY12). The additional funding is requested because the bids received on March 1, 2012 for the project came in well over budget. The lowest qualified bid was $1.1 million; with soft costs, the total

was $1.22 million, leaving a gap of approximately $540,000. All other bids hovered around the $1.1 million figure, meaning there was clearly a problem with the architect's estimate of $750,000.

The Building Commission had the architect (KBA) explain why the bids came in so significantly over budget. Among the reasons provided by the architect were the following:

1. The construction period (late-June – end of August) was too short
2. The "lighting bridge" ended up being far more expensive than anticipated
3. The acoustic wall and overhead treatments ended up being more costly than originally thought; and
4. The cost of the HVAC system exceeded estimates

The architect has agreed to re-design the project at no cost and an independent cost estimator will review the project before it is put out to bid. In order to undertake the project, which has been in the CIP as far back as FY08, (1) the project will be re-bid with different specifications for the items mentioned above and (2) additional funding is required to complete the work. The amount requested is $400,000, meaning the re-design of the project needs to result in savings of approximately $140,000 (the difference between the $540,000 mentioned above and the $400,000). The source of the funding is the Overlay Surplus, which the Board of Assessors has previously declared.

The Selectmen have supported this project and will continue to do so by recommending this additional funding. It is unfortunate that the bids came in so high, but this is an important project for Pierce School and the community generally. The efforts of the Building Commission and staff, School Department, and architect to re-design the project and reduce costs are greatly appreciated. By a vote of 5-0 taken on April 24, 2012, the Board recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town appropriate $400,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the Pierce School Auditorium project, provided that the final plans and specs be reviewed and approved by the Advisory Committee and that these funds not be expended before December 31, 2012; and to meet the appropriation transfer $400,000 from the overlay surplus account.

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## ADVISORY COMMITTEE'S RECOMMENDATION

The Advisory Committee's recommendation will be included in a Supplemental Report to be mailed prior to the commencement of Town Meeting.

***XXX***

# ARTICLE 7

## ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
Article 7 is a request for a sum of money, not to exceed $400,000, for improvements to the Pierce School Auditorium, a project originally funded at $750,000 by Town Meeting in the spring of 2011. Of that amount, approximately $700,000 remains unexpended.

Construction bids for the Pierce School Auditorium project were received this past March, with the lowest qualified bid (approximately $1.1 million) being significantly higher than the estimate of the architect, Kaestle Boos Associates (KBA). When combined with soft costs, the amount needed to complete the project is now projected at $1.22 million. Reasons for the discrepancy between estimates and actual bids have been attributed to the price of the HVAC system; the compact construction schedule, with the vast majority of the work needing to be completed within two summer months; the labor-intensive acoustical ductwork; and the cost of the lighting bridge.

In order to move forward with the project, the following steps have been proposed:

- Town Meeting's approval of up to $400,000 from the Overlay Surplus Account (approval of the Board of Assessors has been received).
- KBA's re-design of the project at no additional cost to the Town with the goal of reducing construction costs by at least $140,000. Savings may be found in the modification of the lighting bridge and supplementing, rather than replacing, the existing eight year-old HVAC system.
- Third- party review of cost estimates before the project is re-bid.

DISCUSSION:
While concerned with both the significant error on the part of the architect in estimating the project's cost and the additional funding needed for the renovation, the Advisory Committee acknowledges that the project is necessary to provide space for music classes and school performances at the Pierce School. Committee members who have attended events in the current auditorium have reported on the current lack of adequate seating and adequate air conditioning.

Knowing that the work could not get underway until the 2013 summer recess, the Advisory Committee initially intended to condition its approval upon delaying the expenditure of the additional funds until June 15, 2013, to allow for any budgetary adjustments by the 2013 Annual Town Meeting.

However, Town Counsel has made it clear that no contracts can be signed by the Board of Selectmen without having all of the funding approved by Town Meeting, and Building Commission staff have noted that no "long lead" items, such as HVAC equipment and telescoping seating, can be ordered without a signed contract. In order for the project to begin by mid-June of 2013 bids should go out early this winter.

RECOMMENDATION:
A unanimous Advisory Committee recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town appropriate $400,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the Pierce School Auditorium project, provided that the final plans and specifications be reviewed and approved by the Advisory Committee and that these funds not be expended before December 31, 2012; and to meet the appropriation transfer $400,000 from the overlay surplus account.

ARTICLE 8

EIGHTH ARTICLE
Submitted by: Advisory Committee

To see if the Town will:

A.) Fiscal Year 2013 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 2013 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 2013 Special Appropriations

Appropriate sums of money for the following special purposes:

1. Appropriate $250,000, or any other sum, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by 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 Director of Planning and Community Development, with any necessary contracts to be approved by the Board of Selectmen and the Economic Development Advisory Board, for commercial area improvements.

3. Appropriate $50,000, or any other sum, to be expended under the direction of the Fire Chief, with any necessary contracts to be approved by the Board of Selectmen, for the refurbishment of Fire Engine #3.

4. Appropriate $320,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for making extraordinary repairs to Fire Stations.

5. Appropriate $75,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for bicycle access improvements.

6. Appropriate $25,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the

Board of Selectmen, for a study of the Harvard Street / Green Street pedestrian crossing.

7. Appropriate $1,470,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of streets.

8. Appropriate $276,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of sidewalks.

9. Appropriate $65,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for deposit into the Sidewalk Revolving Fund.

10. Appropriate $85,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of Town-owned parking lots.

11. Appropriate $100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for enhancements to the Parking Meter System.

12. Appropriate $300,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for all costs associated with repairing, reinforcing, and stabilizing the floor at the Municipal Service Center.

13. Appropriate $3,250,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for costs associated with the construction of a park/playground/field at the site of the old Fisher Hill Reservoir.

14. Appropriate $285,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.

15. Appropriate $80,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of Town and School grounds.

16. Appropriate $165,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.

17. Appropriate $250,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the

Board of Selectmen and the Cemetery Trustees, for upgrades to the Old Burial Grounds.

18. Appropriate $500,000, or any other sum, to be expended under the direction of the Commissioner of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for costs associated with the construction of a maintenance building at the Robert T. Lynch Golf Course at Putterham Meadows.

19. Appropriate $50,000, or any other sum, to be expended under the direction of the Chief Procurement Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for school furniture upgrades.

20. Appropriate $60,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for ADA renovations to Town and School buildings.

21. Appropriate $250,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for improvements to elevators in Town and School facilities.

22. Appropriate $125,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of emergency generators and/or installation of emergency lights or circuits.

23. Appropriate $150,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for energy conservation projects in Town and School buildings.

24. Appropriate $100,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for upgrades to energy management systems in Town and School buildings.

25. Appropriate $60,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for removal of hazardous materials from Town and School buildings.

26. Appropriate $150,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for improvements to life safety systems and building security in Town and School facilities.

27. Appropriate $250,000, or any other sum, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the replacement of intercom systems in School buildings.

28. Appropriate $55,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the replacement of the auditorium stage at the High School.

29. Appropriate $50,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for a space needs study of the High School.

30. Appropriate $500,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for costs associated with structural repairs to the exterior surface at the Old Lincoln School.

31. Appropriate $37,500, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for engineering or architectural services for plans and specifications associated with the upgrade of the electrical distribution system at the Pierce School.

32. Appropriate $1,750,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the expansion of classroom capacity in various schools.

33. Appropriate $1,300,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for remodeling, reconstructing, or making extraordinary repairs to the Unified Arts Building (UAB).

34. Appropriate $2,150,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for the renovations of Waldstein Playground and Warren Field / Playground.

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 FY2013. 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 14th. 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.

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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 preparing this FY13 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 FY13 Budget.

**ACTIONS SINCE THE RELEASE OF THE FINANCIAL PLAN**

Since the Financial Plan was released on February 14th, there was one significant modification to the Operating Budget, and it involved final health insurance rates set by the State's Group Insurance Commission (GIC). Prior to joining the GIC, 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 GIC, the Town must wait until March to find out what the rate increase will be. During the first week of March, the GIC met and voted on the FY13 rates. In the aggregate, the rates approved by the GIC compared favorably to the 5% across-the-board rate increase assumed in the FY13 Financial Plan. While there are varying rate increases for the many different GIC plans, the aggregate increase is approximately 2%.

Based on these new rates, the Group Health budget for FY13 was reduced to $23.078 million, an amount that is $851,189 less than the amount built into the Financial Plan. The School's share was $453,537 and the Town's share $397,652. The end result is a year-over-year budget increase of $1.4 million, or 6.4%. (The difference between the 2% pure rate increase stated above and the total 6.4% budget increase is the impact of (1) the increase in the Town's share of premiums from 80% to 83% and (2) an assumed growth of 30 enrollees.)

The School's share of the savings has been added to their appropriation while the Town's share, less some increases to departmental budgets detailed below, remains in the Group Health budget. This is recommended because of (1) uncertainty on final State Aid and (2) the Town's exposure to the current vehicle fuel market. The budget before you includes a

handful of smaller differences in the Operating Budget from the Financial Plan as presented by the Town Administrator, each of which are funded from the Town's share of the above-mentioned health insurance savings. These changes are as follows:

1. Legal – an additional $900 was included in the Conference account.
2. Advisory Committee – an additional $1,000 was added to the Food account.
3. Planning & Community Development – an additional $13,969 was added to increase the hours of the part-time Preservation Planner from 22 hours/week to 30 hours/week.
4. Library – an additional $7,000 was included to add Sunday hours at the Coolidge Corner branch library during the Summer on a trial basis.
5. Council on Aging – an additional $20,000 was added due to the bids for the ElderBus coming is higher than originally estimated.

As previously mentioned, these items, which total $42,869, are funded by using a portion of the Town's share of the reduction in the Group Health budget. Of the Town's $397,652 share of the Group Health budget reduction, $354,783 remains. Those funds can be re-allocated at the Fall Town Meeting.

There are also two changes to the FY13 CIP as proposed in the Financial Plan:

1. High School Stage – the request of $55,000 was funded at $25,000.
2. Old Burial Ground – the reduction in the High School Stage project ($30,000) was added to the Old Burial Ground project, making it $280,000.

The other change from the Financial Plan is the Water and Sewer Enterprise Fund budget. Due to current anticipated MWRA Assessments being greater than originally planned for, that budget was increased by $594,709 to $26.3 million.

## BUDGET SUMMARY

As shown in Table 1 on the following page, the General Fund budget proposed by the Advisory Committee totals $221.2 million, of which $213.2 million is appropriated, reflecting an increase of $12.1 million (6%). The remaining $8 million is the so-called "Non-Appropriated" portion of the budget. Table 2 on page 8-8 details the entire FY13 budget, including enterprise / revolving funds. In total, this represents a 6.1% increase for all funds. This budget recommendation includes a General Fund Operating Budget of $202 million, which represents an increase of $7.9 million (4%); revenue-financed capital of $11.2 million; enterprise / revolving funds of $29.3 million (gross); and non-appropriated expenses of $8 million.

TABLE 1

| | FY2012 BGT. | FY2013 BGT. | INCREASE/DECREASE $ | % |
|---|---|---|---|---|
| **REVENUE** | | | | |
| Property Tax | 163,620,489 | 169,848,463 | **6,227,974** | **3.8%** |
| Local Receipts | 20,275,792 | 21,084,438 | **808,645** | **4.0%** |
| State Aid | 13,383,563 | 14,806,425 | **1,422,862** | **10.6%** |
| Free Cash | 5,380,264 | 5,336,413 | **(43,851)** | **-0.8%** |
| Other Available Funds | 6,218,966 | 10,144,344 | **3,925,377** | **63.1%** |
| **TOTAL REVENUE** | **208,879,077** | **221,220,083** | **12,341,006** | **5.9%** |
| **(LESS) NON-APPROPRIATED EXPENSES** | | | | |
| State & County Charges | 5,671,508 | 6,162,822 | **491,314** | **8.7%** |
| Tax Abatement Overlay | 1,910,496 | 1,700,000 | **(210,496)** | **-11.0%** |
| Deficits & Judgments | 25,000 | 25,000 | **0** | **0.0%** |
| Cherry Sheet Offsets | 106,839 | 109,160 | **2,321** | **2.2%** |
| **TOTAL NON-APPROPRIATED EXPENSES** | **7,713,843** | **7,996,982** | **283,139** | **3.7%** |
| **AMOUNT AVAILABLE FOR APPROPRIATION** | **201,165,234** | **213,223,100** | **12,057,866** | **6.0%** |
| **APPROPRIATIONS** | | | | |
| Town Departments | 63,203,475 | 64,857,909 | **1,654,434** | **2.6%** |
| School Department | 75,387,188 | 78,649,602 | **3,262,414** | **4.3%** |
| Non-Departmental Total | 55,595,569 | 58,532,089 | **2,936,519** | **5.3%** |
| General Fund Non-Departmental | 53,268,158 | 56,239,299 | **2,971,141** | **5.6%** |
| Water and Sewer Enterprise Fund Overhead * | 1,867,647 | 1,855,987 | **(11,660)** | **-0.6%** |
| Golf Enterprise Fund Overhead * | 163,852 | 155,038 | **(8,814)** | **-5.4%** |
| Recreation Revolving Fund Overhead * | 295,912 | 281,764 | **(14,148)** | **-4.8%** |
| OPERATING BUDGET SUBTOTAL | 194,186,234 | 202,039,600 | **7,853,366** | **4.0%** |
| Revenue-Financed Special Appropriations | 6,979,000 | 11,183,500 | **4,204,500** | **60.2%** |
| **TOTAL APPROPRIATIONS** | **201,165,234** | **213,223,100** | **12,057,866** | **6.0%** |
| **BALANCE** | **0** | **0** | **0** | |

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

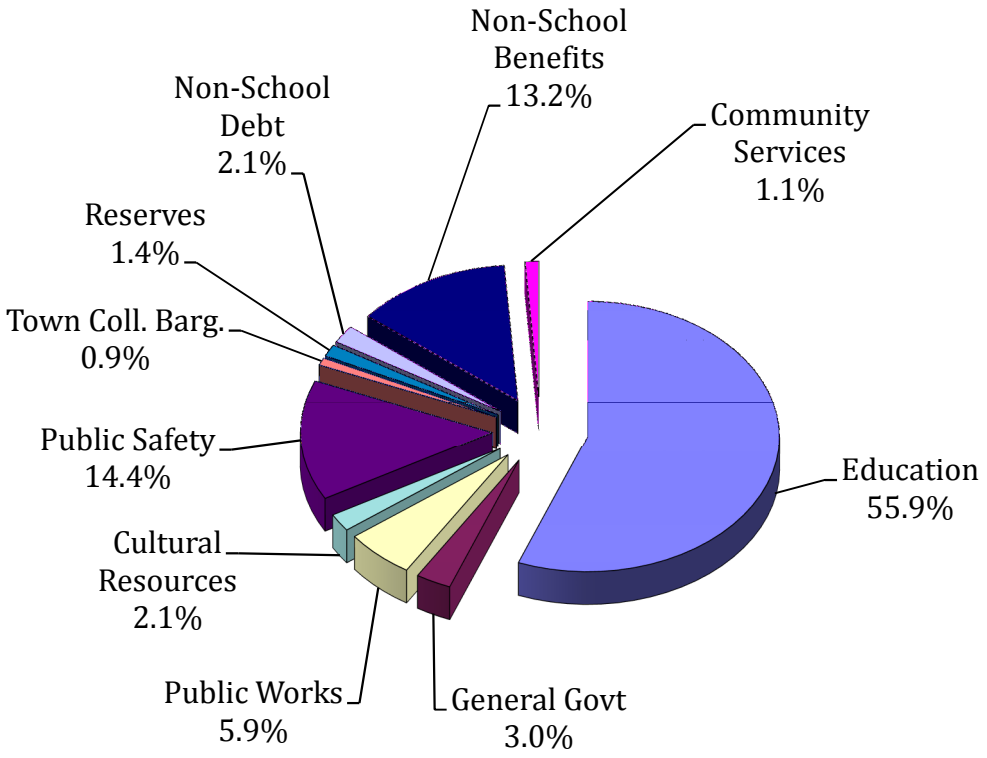
TABLE 2

| | FY2012 | FY2013 | INCREASE/DECREASE $ | % |
|---|---|---|---|---|
| **REVENUE** | | | | |
| General Fund Revenue | 208,879,077 | 221,220,083 | **12,341,006** | **5.91%** |
| Water and Sewer Enterprise Fund | 24,687,605 | 26,331,330 | **1,643,725** | **6.66%** |
| (less Water & Sewer Overhead included in General Fund Revenue) | (1,867,647) | (1,855,987) | **11,660** | **-0.62%** |
| Golf Enterprise Fund | 1,204,000 | 1,204,000 | **0** | **0.00%** |
| (less Golf Overhead included in General Fund Revenue) | (163,852) | (155,038) | **8,815** | **-5.38%** |
| Recreation Revolving Fund | 2,055,713 | 2,388,655 | **332,942** | **16.2%** |
| (less Rec. Revolving Fund Overhead included in General Fund Revenue) | (295,912) | (281,764) | **14,148** | **-4.8%** |
| **TOTAL REVENUE** | **234,498,983** | **248,851,278** | **14,352,295** | **6.1%** |
| **APPROPRIATIONS** | | | | |
| General Fund Operating Budget | 194,186,234 | 202,039,600 | **7,853,366** | **4.0%** |
| Non-Appropriated Budget * | 7,713,843 | 7,996,982 | **283,139** | **3.7%** |
| Revenue-Financed CIP Budget / Other Special Appropriations | 6,979,000 | 11,183,500 | **4,204,500** | **60.2%** |
| General Fund Total | 208,879,077 | 221,220,082 | **12,341,005** | **5.9%** |
| Water and Sewer Enterprise Fund | 24,687,605 | 26,331,330 | **1,643,725** | **6.66%** |
| (less Water & Sewer Overhead included in General Fund Revenue) | (1,867,647) | (1,855,987) | **11,660** | **-0.62%** |
| Golf Enterprise Fund | 1,204,000 | 1,204,000 | **0** | **0.0%** |
| (less Golf Overhead included in General Fund Revenue) | (163,852) | (155,038) | **8,815** | **-5.4%** |
| Recreation Revolving Fund | 2,055,713 | 2,388,655 | **332,942** | **16.2%** |
| (less Rec. Revolving Fund Overhead included in General Fund Revenue) | (295,912) | (281,764) | **14,148** | **-4.8%** |
| **TOTAL APPROPRIATIONS** | **234,498,983** | **248,851,278** | **14,352,295** | **6.1%** |
| **BALANCE** | **0** | **0** | **0** | |

* State and County Charges/Offsets, Overlay, Deficits/Judgments.

The fully-allocated $202 million General Fund Operating budget is broken out in the pie chart on the following page.

**FULLY ALLOCATED FY2013 GENERAL FUND OPERATING BUDGET**




**FY2013 OVERVIEW**

FY2013 continues to reflect the weakened economy that has been with us since 2008. Between FY 2008 and FY 2012, the Town suffered a loss of $3.3 million (22%) in State Aid and experienced reductions in other receipts reliant on economic activity, including property taxes from new construction, motor vehicle excise taxes and building permits. During that same period, enrollment in Brookline's public schools skyrocketed. Since FY 2005, enrollment in the elementary schools has increased by 941 students, requiring an additional 34 teaching sections (classes). In addition to the demands that this enrollment places on the Town's school buildings and infrastructure, it has placed significant strain on the School Department's ability to maintain quality educational programming and services. Fortunately, it appears that some impacts of the economic recession have peaked, and FY 2013 represents the first year of increased State Aid for Brookline from the Commonwealth of Massachusetts since FY 2008. Still, the impact of increased enrollment presents continued budgetary difficulties for the School Department, and this budget before you includes a temporary adjustment of the Town's revenue allocation formula to accommodate this factor and provide a 4.3% increase in funding.

The FY 2013 Budget continues a conservative and modest approach that has served the Town well. Overall, funding for municipal departments is limited to a 2.6% increase, including the projected costs of increased salaries and wages. Full-time equivalent staffing in municipal departments is down again in FY 2013, representing a sustained effort to implement efficiencies in operations. The FY 2013 Budget complies with recently revised financial policies, including a requirement to maintain an amount equivalent to no less than 10% of the Town's operating revenues in reserve. This revised financial policy proved very timely and effective when Moody's Investors Services placed the Town and most other Aaa-rated municipalities on a "watch list" during the federal government's debt ceiling crisis. We were pleased to learn in December that the Town was removed from the list and had its Aaa rating restored to a "stable outlook". In February, our Aaa credit rating was reaffirmed by Moody's as part of this year's bond sale process. We are convinced that adherence to formal financial policies and long-term budgetary planning contributed to this positive outcome. Finally, the FY 2013 Financial Plan includes a Capital Improvement Program (CIP) that meets a prudent level of spending on the replacement of major equipment, the expansion of classroom capacity in public school buildings and the renovation of the Town's buildings, facilities and physical infrastructure.

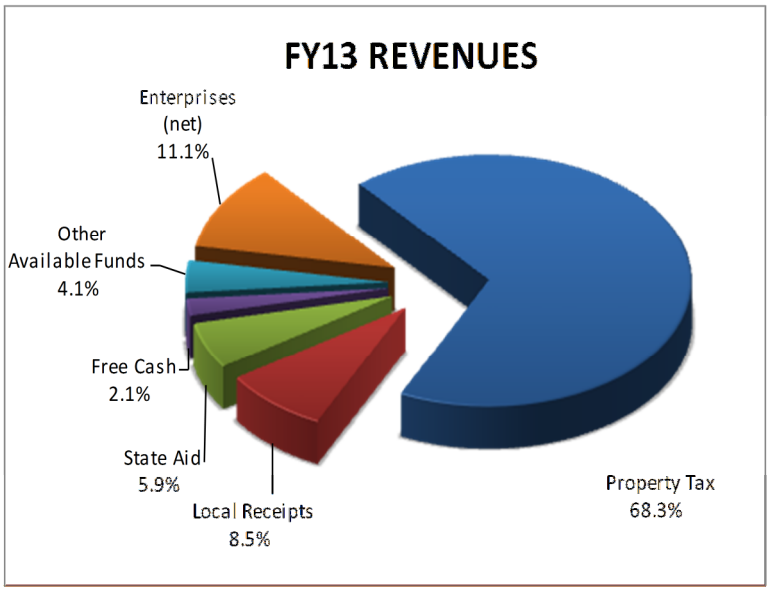
Below is a summary table of the FY 2013 Budget. In the sections that follow, a more detailed review of revenues and expenditures is addressed.

| | FY 2012 | FY 2013 | $$$ CHANGE | % CHANGE |
|---|---|---|---|---|
| **REVENUES** | | | | |
| Property Tax | 163,620,489 | 169,848,463 | 6,227,974 | 3.8% |
| Local Receipts | 20,275,792 | 21,084,438 | 808,646 | 4.0% |
| State Aid | 13,383,563 | 14,806,425 | 1,422,862 | 10.6% |
| Free Cash | 5,380,264 | 5,336,413 | (43,851) | -0.8% |
| Other Available Funds | 6,218,966 | 10,144,344 | 3,925,377 | 63.1% |
| Enterprises (net) | 25,619,907 | 27,631,196 | 2,011,289 | 7.9% |
| **TOTAL REVENUES** | **234,498,983** | **248,851,278** | **14,352,295** | **6.1%** |
| **EXPENDITURES** | | | | |
| Municipal Departments | 63,203,475 | 64,857,909 | 1,654,434 | 2.6% |
| School Department | 75,387,188 | 78,649,602 | 3,262,415 | 4.3% |
| Non- Departmental | 55,595,569 | 58,532,088 | 2,936,519 | 5.3% |
| Special Appropriations | 6,979,000 | 11,183,500 | 4,204,500 | 60.2% |
| Enterprises (net) | 25,619,907 | 27,631,196 | 2,011,289 | 7.9% |
| Non-Appropriated | 7,713,843 | 7,996,982 | 283,139 | 3.7% |
| **TOTAL EXPENDITURES** | **234,498,983** | **248,851,278** | **14,352,295** | **6.1%** |

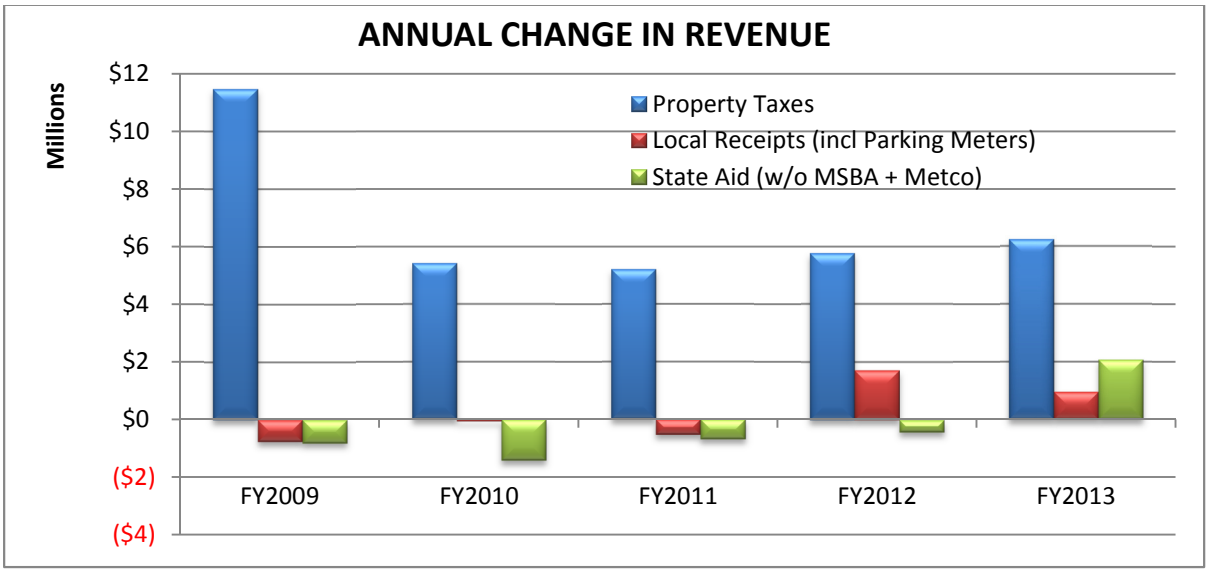
**Revenues**

Taxes: Property taxes are projected to be $169,848,463 in FY 2013, representing over two-thirds of the total revenue available to the Town. Of this amount, $4 million reflects the

annual 2.5% allowable growth in the tax levy, $1.6 million from the value of new construction (New Growth) and $1.63 million for debt service on capital projects that the voters have excluded from the Proposition 2½ levy limit. The Town's property tax is overly reliant on residential property values. Despite the establishment of a higher tax rate for commercial property, the value of commercial, industrial and personal property in Brookline represents only 16.4% of the Town's total tax levy. The Town's goal is to increase the relative percentage of commercial and industrial tax base with development that is compatible with the neighborhood and limits negative impacts of traffic, noise and costly municipal services. In addition to the relief provided to residential taxpayers, additional commercial development adds jobs, vitality and residual revenue (e.g. meals taxes and parking meter receipts) for the Town. We look forward to improvement in the overall economy necessary to facilitate planned commercial development such as the project at 2 Brookline Place along the Brookline Avenue corridor.




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



Local Receipts: FY 2013 Local Receipts are projected at $21,084,438. This category of revenue represents a variety of sources generated by Town fees and charges. Most prominent are the Motor Vehicle Excise tax, Parking and Traffic fines, Building Permit fees, and the Trash Collection charge. In FY 2013, Local Receipts are increasing for the second consecutive year, following the trend of the economic recovery. However, this level of Local Receipts has still not rebounded to the level the Town budgeted in FY 2008. This year, the Town will receive a $300,000 subsidy from the federal government, through the State's Group Insurance Commission (GIC), to reimburse costs for drug prescriptions under the Medicare Part D program. It is proposed that these funds be used to support the Town's unfunded liability for retiree health insurance (OPEBs).

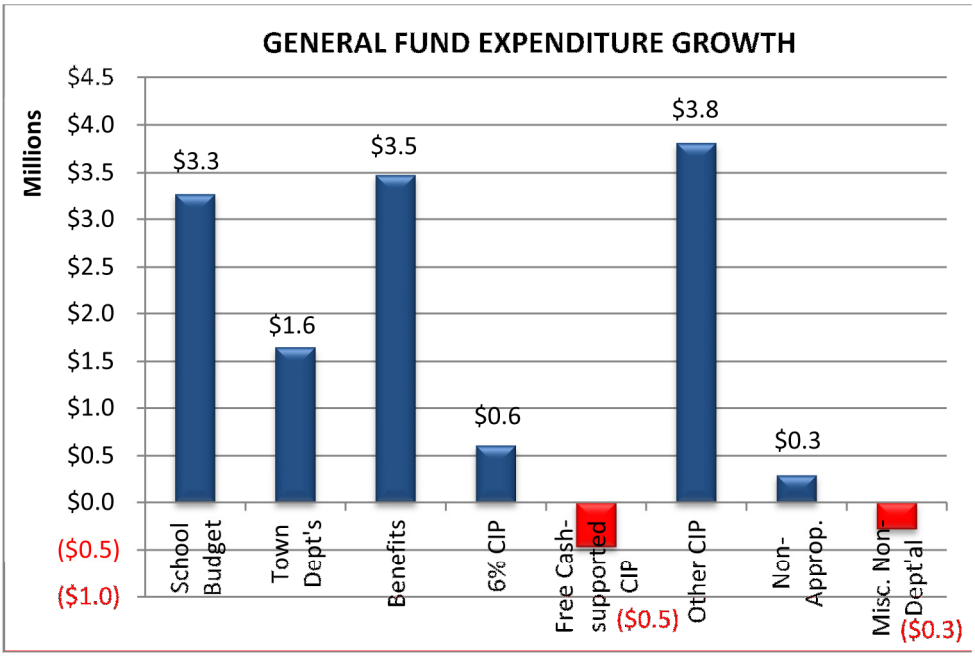
State Aid: FY 2013 State Aid is projected at $14,806,425, including reimbursement of school construction costs under the old SBA program. This level of aid represents the first increase since FY 2008. Governor Patrick has proposed a statewide increase of $145.6 million in the Chapter 70 Education funding category. For Brookline, which has experienced a dramatic increase in student enrollment with related impacts on the cost of special education and English learning services, the increase in aid is substantial. Chapter 70 funding for FY 2013 will increase by over $2 million, or 29.3%. (See Section III of the Financial Plan for a more detailed explanation of the Ch. 70 increase.) Under the Governor's proposal, Unrestricted General Government Aid (UGGA) is level-funded in FY 2013, reversing the four-year trend of reduced funding.

Free Cash: FY 2013 Free Cash proposed to fund the Budget is $5,336,413. Free Cash represents the unrestricted fund balance from the prior fiscal year as certified by the State Department of Revenue (DOR). FY 2013 represents the first year of a new financial policy that mandates a minimum level of operating reserves. The amount of certified Free Cash available for appropriation in FY 2013 is $7,086,413. In order to ensure that the Town's operating reserves will exceed 10% of operating revenues, $5.34 million of Free Cash is being allocated in the FY 2013 Budget. Pursuant to the Town's financial policies, Free Cash is used only to support non-operating purposes: nearly $4 million of the $5.34 million of Free Cash allocated to the FY 2013 Budget is being used to fund the CIP, with the remainder going toward reserves and employee benefit-related trust funds.

Other Available Funds: The FY 2013 Budget proposes the use of $10,144,344 in other funding sources. Of this amount, $3.25 million is from the proceeds of the sale of the Fisher Hill property and is earmarked for development of new parkland on Fisher Hill. Another $560,000 is being "re-captured" from old capital projects to be used to fund the CIP. 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.

Enterprises: The Town operates and accounts for its Water/Sewer system and Golf Course as self-supporting enterprises. Similarly, most programs and services of the Recreation Department are accounted for in a separate Revolving Fund. The fees and other revenues attributable to these operations are proposed to be $27,036,488, net of the reimbursements to the General Fund mentioned above under Other Available Funds. An equal amount is included in the expenditure side of the budget.

**Expenditures**




Municipal Departments: In FY 2013, the projected cost for all municipal (non-school) departments is $64,857,909, an increase over FY 2012 of 2.6%. This amount includes a reserve for wage and salary increases for municipal employees, conditional upon negotiated settlements. The number of full-time equivalent personnel in municipal departments is being reduced slightly from FY 2012. Contributing to this is the reduction of several positions in order to gain efficiencies or realize cost savings. In general, any increase in departmental expenses was limited to fixed personnel costs, 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 2013 by increasing enrollment. As a result, the budget before you includes a temporary adjustment of the formula that takes into consideration the extraordinary impacts of increased enrollment. This was achieved by distributing the projected increase of $550,000 in enrollment costs 50/50, with the Town absorbing $275,000. The proposed FY 2013 School budget is $78,649,602, inclusive of negotiated salary increases. This budget represents an increase of 4.3%.

Non-Departmental: This is a large category of expenses that incorporates personnel benefits for municipal and school employees, debt service on bonds, insurance coverages and special reserve funds. The proposed budget for FY 2013 is $58,532,088, an increase of 5.3% from FY 2012. The largest of these expenses is the cost of health insurance for the Town's eligible employees and retirees (including employees and retirees of the School Department). 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 than the prior plan of benefits, resulting in substantial cost savings for both the

Town and participating employees. In FY 2012, the rate of premium increase for the GIC plans increased in the aggregate by 4.5%. For FY 2013, the increase in rates is approximately 2%. When the cost associated with the Town's increase in premium share from 80% to 83% is included, the Group Health budget increases 6.4%.

The Town continues to proactively fund its long-term liability for retiree health care benefits. Referred to as Other Post-Employment Benefits (OPEB), the FY 2013 Budget increases base funding by $250,000 and adds a new allocation of $300,000 from anticipated reimbursements from the Town's participation in the Medicare Part D (drug prescription) program. Finally, an additional allocation of $211,256 from Free Cash is included. If the Town continues to fund this liability in this manner, we will reach the actuarially determined Annual Required Contribution (ARC) in approximately 10 years. Pension costs increase $810,431 (5.5%) based on the current two-year funding schedule approved by the State (PERAC). A new funding schedule will be approved in the Fall that will set the amounts for FY14-FY15.

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. Currently, the Town is expanding and renovating the Runkle School and creating an expansion of the Heath School, with participation by the Commonwealth of 41.6% for Runkle and 39.9% for Heath. We are also in the planning phase for a comprehensive project at the Devotion School, the Town's largest elementary school. The proposed revenue-financed portion of the CIP is $11,183,500 in FY 2013. Recall that this funding includes the $3.25 million from the sale of the Fisher Hill property and an additional $560,000 from prior/completed capital projects. 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 to the MBTA; the Overlay, which is a reserve for tax abatements and exemptions issued by the Board of Assessors; and the Norfolk County assessment. Overall, the cost of Non-Appropriated items in FY 2013 is $7,996,982, an increase of 3.7% from FY 2012. This year, we were assessed a greater share of the MBTA assessment as a result of our increased population and due to a statutory change in the formula.

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 net cost of Enterprises in FY 2013 is $27,631,196, an increase over FY 2012 of 7.9%. The Town is continuing to refine the costs of the enterprises, both direct and indirect, to ensure that the financial relationship between these funds and the General Fund is appropriate.

## FY 2013 POLICY ISSUES AND INITIATIVES

While the FY 2013 Budget became easier to manage than previously anticipated due to the $2 million increase in Ch. 70 funding and a smaller increase in health insurance premiums, the long-term financial challenges remain and we have worked hard to identify efficiencies in

operations and to hold cost increases down. There are a number of areas and issues that have influenced the FY 2013 Budget, each of which are addressed below:

- Study of the Planning and Community Development Department: Last year, the Town Administrator committed to a comprehensive review of the Planning and Community Development Department in time to be addressed for the FY 2013 Budget. He retained the Collins Center at the University of Massachusetts-Boston for this purpose. The impetus for the study was the on-going dispute over the merits of funding staff to support the commercial areas of Brookline. In addition, the federal Community Development Block Grant (CDBG) funding has been reduced and will require reductions in departmental staffing. The consultants were asked to review functional responsibilities of the department and to make recommendations in staffing and/or organizational structure necessary to meet the reduced funding levels.

  Based on the findings and recommendations of the Collins Center, an administrative/financial position was eliminated and those duties were reallocated among existing personnel. In addition, the Town Administrator proposed eliminating the former Commercial Areas Coordinator position, replacing it with a lesser classified planning position reporting to the Economic Development Director. The new position will work closely with the Director and the Economic Development Advisory Board (EDAB) on the important mission of supporting and expanding the Town's commercial tax base. We will be careful to avoid some of the pitfalls that became controversial with the former position, including advocacy efforts and other direct support of the commercial sector. We intend to work with the business community to establish a private partner organization that will assume those roles.

  Finally, the consultant observed that departmental staff has become too specialized over time and lacks the flexibility to adapt to changing priorities and variable workloads. This is not to suggest that the Town should not retain experts in highly complex areas such as zoning, affordable housing, historic preservation and economic development. Rather, the consultant recommends that professional support to these experts should have a more general planning background and be prepared to shift efforts to areas of higher priority or increased workload as necessary. Full implementation of this recommendation will be achieved over time, as current personnel depart the Town. However, the new planner position assigned to the Economic Development division will be created with this new concept in mind.

- Public Works Staffing and Services: The Public Works Department is a high-performing organization with highly qualified management, experienced supervisors and dedicated employees. We are very proud of the Department's accomplishment in 2011 to become the first department in New England to receive accreditation status from the American Public Works Association. However, as the Town's largest department, there are many opportunities to review staffing levels and qualifications. In addition, the scope and nature of the Department's work makes it prone to frequent changes in technology and market conditions.

  There are two specific areas of focus in the FY 2013 Budget. The first involves the frequency and adequacy of street sweeping. Currently, the department sweeps streets

in commercial areas three times per week and other streets once every 10 days. Research with comparable communities in Massachusetts indicates that commercial area sweeping is done from three times per week in a few communities to twice per year in others, with the majority sweeping about once per week. Non-commercial streets are swept on a frequency from a high of three times per month to a low of twice per year. With improvements in the operation and reliability of the street sweeping machines, a better trained workforce and GPS capability, the Town's productivity has increased and can absorb some reduction in sweeping frequency. We recommend that sweeping in non-commercial areas be reduced to once per 14 days, enabling one position in this operation to be eliminated.

The second area is forestry services. One of the unique features that makes Brookline attractive is the quality of its street trees and public spaces. The Town maintains these assets through a combination of in-house staff and a contractual service. We were disappointed to learn of a new state mandate that requires a higher "prevailing wage" for the contracted tree service, resulting in an effective reduction of services. In order to procure the same level of services under this contract at the prevailing wage, an additional $110,000 would be required. The alternative is to maintain level-funding, but reduce forestry services. Neither of these choices are beneficial to the Town.

After careful analysis, it was determined that the impact of this reduction could be mitigated by hiring a Forestry Craftsman to replace a portion of the more expensive tree service. In addition, it has been advocated for some time that the Town requires additional forestry experience and expertise to support the Tree Warden. We have upgraded an existing position to create a Forestry Supervisor to meet this need. The result of these changes is an increase in "pruning hours" of more than 15% at a cost of approximately $67,000 (including benefits). In order to fund these enhancements in Forestry, a Gardener/Laborer position has been eliminated in the Parks and Open Space Division. This will be accommodated by revisiting the turf management program for larger open areas in the parks that do not require the more aggressive maintenance of the athletic field turf. The Division will re-evaluate the seed mix in these areas, look at less fertilization, less watering, utilizing mulching kits, and setting the cutting blades higher. The intent will be to allow turf in these areas to grow slightly higher while still being healthy and lush. The desired goal is a sustainable turf management program that reduces the frequency of cutting.

| Prior to Prevailing Wage | | Current | |
|---|---|---|---|
| Contracted Street Tree Pruning Budget | $125,000 | Contracted Street Tree Pruning Budget | $125,000 |
| In-House Tree Pruning Costs | $148,538 | In-House Tree Pruning Costs | $148,538 |
| Total | $273,538 | Total | $273,538 |
| Weeks of Contracted Pruning | 32.2 | Weeks of Contracted Pruning | 17.6 |
| Weeks of In-House Pruning | 24.8 | Weeks of In-House Pruning | 24.8 |
| Total | 57.0 | Total | 42.4 |
| | | **Reduction in Weeks of Street Tree Pruning due to Prevailing Wage** | **-25.6%** |
| **Option 1: Increase contract to maintain weeks** | | **Option 2: In-house personnel to maintain weeks** | |
| Contracted Street Tree Pruning Budget | $235,000 | Contracted Street Tree Pruning Budget | $125,000 |
| In-House Tree Pruning Costs | $148,538 | In-House Tree Pruning Costs | $215,496 |
| Total | $383,538 | Total | $340,496 |
| Weeks of Contracted Pruning | 32.2 | Weeks of Contracted Pruning | 17.6 |
| Weeks of In-House Pruning/Specialty Pruning | 24.8 | Weeks of In-House Pruning/Specialty Pruning | 48.8 |
| Total | 57.0 | Total | 66.4 |
| **Increase in Weeks of Street Tree Compared to prior to Prevailing Wage** | **0.0%** | **Increase in Weeks of Street Tree Compared to prior to Prevailing Wage** | **16.5%** |
| **Increase in Cost** | **$110,000** | **Increase in Cost** | **$66,958** |

A number of other staffing changes have been initiated throughout the budget as seen in the table below:

| FUND | DEPT. | CHANGE | $ | NOTE: |
|---|---|---|---|---|
| General | Planning | 0.00 | ($13,509) | Elimination of Commercial Areas Coord / Replace with Econ. Devel. Planner |
| General | DPW - Highway Div | -1.00 | ($45,228) | Elimination of MEO II (LN-3) |
| General | DPW - Parks Div | 0.00 | $4,207 | Upgrade Forestry Zone Manager (LN-6) to Forestry Supervisor (GN-9) |
| General | DPW - Parks Div | 1.00 | $45,228 | New Park Maintenance Craftsman (LN-3) |
| General | DPW - Parks Div | -1.00 | ($43,266) | Elimination Gardener/Laborer (LN-2) |
| General | DPW - Parks Div | 0.57 | $30,827 | Moved all Park Ranger expense and revenue to General Fund |
| General | Health | 0.00 | $1,919 | Reclassification of Assistant Director (T-11 to T-12) |
| **General Fund Sub-Total** | | **-0.43** | **($19,822)** | |
| General | Planning | 0.21 | $13,969 | Additional hours for Preservation staff (added after Financial Plan) |
| CDBG | Planning | -0.80 | ($41,010) | Elimination of the CD Fiscal Assistant (C-10) |
| CDBG | COA | 0.44 | $15,839 | CD funding eliminated, positions maintained |
| **CDBG Sub-Total** | | **-0.15** | **($11,202)** | |
| Golf | Recreation | 1.00 | $66,032 | Head Golf Pro / Operations Manager (T-8) |
| Golf | Recreation | -1.00 | ($77,700) | Elimination of Dir of Golf (T-9) |
| Golf | Recreation | -0.67 | ($36,803) | Elimination of Head Golf Pro / Rink Manager - 0.67 FTE (GN-8) |
| **Golf Enterprise Fund Sub-Total** | | **-0.67** | **($48,471)** | |
| Revolving | Recreation | -0.57 | ($30,827) | Moved all Park Ranger expense and revenue to General Fund |
| Revolving | Recreation | -0.33 | ($18,402) | Elimination of Head Golf Pro / Rink Manager - 0.67 FTE (GN-8) |
| Revolving | Recreation | -1.00 | ($49,987) | Elimination of Recreation Leader I (GN-7) |
| Revolving | Recreation | 1.00 | $52,559 | Recreation Leader II (GN-8) |
| Revolving | Recreation | 0.07 | $3,241 | Lead Teacher increase from 0.73 to 0.80 FTE |
| Revolving | Recreation | 0.20 | $8,114 | After School Director increase from 0.60 to 0.80 FTE |
| **Revolving Fund Sub-Total** | | **-0.63** | **($35,301)** | |

- Parking Control Technology: The roll out of the multi-space digital parking meters in commercial areas of Brookline was not without controversy. It seems that people either love or hate the meters, and those who hate them have been very vocal and persuasive. It did not help that the initial meter interface and wireless connectivity were inadequate. With the help of a task force convened by the Town Administrator, those problems were corrected and other areas for improvement were identified. The major complaint with the meters is the requirement to make two trips (from the vehicle to the parking meter and back) in order to place the meter receipt for display on the interior dashboard. These trips are particularly burdensome for the elderly and for parents with small children. It has been suggested that the time and effort to make the parking transaction is not worth the effort for many patrons, and they are avoiding the commercial areas. It appears that the multi-space meters are better suited for the Town's parking lots, where they can service more spaces in a compact area and enforcement is easier. Parking tends to be longer-term and people seem less troubled by the time for the transaction.

  Clearly, much of the resistance to the new meters is resistance to change and unfamiliarity with the technology. This technology has been successfully deployed in many metropolitan areas, including several who experience extreme weather conditions like Brookline. However, the CIP includes funding to make changes. Under the plan, the multi-space meters will remain in the parking lots but be converted to a "pay-by-space" system. With this system, patrons will only be required to make one trip to the meter to record the parking space and pay for the time. Enforcement personnel will automatically download data from the machine that will indicate violators by space and avoid the need for visible receipts. This system will require costs to develop small signs designating each parking space and to acquire a new handheld parking enforcement system.

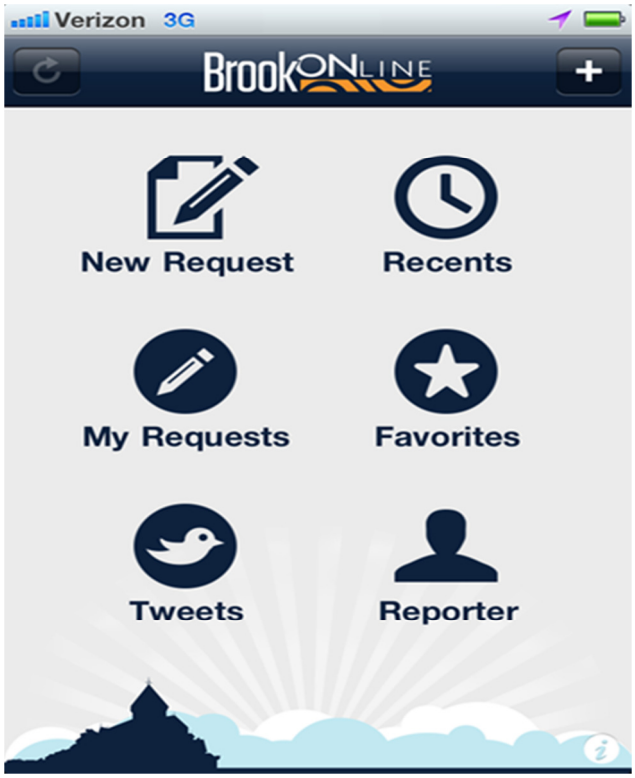
  While the "pay-by-space" system would work better for on-street parking as well, there is new type of machine that acts like a traditional single space meter but has the advanced features of wireless communication and credit card access. The costs to operate these meters are essentially the same as the cost of operating the multi-space meters currently servicing on-street parking. We intend to try out these meters for a 6-12 month trial period. If they work well, it is our intent to deploy them for on-street parking spaces currently served with the multi-space machines. Some multi-space meters will be used to supplement machines in parking lots and the Fenway Park areas (medians) on lower Beacon Street. The remainder will be sold. A total of $100,000 is included in the CIP (from the Parking Meter Fund) to move to pay-by-space, procure new enforcement handhelds, and acquire the new single space meters. These costs are still being developed, so there is a possibility that more than $100,000 will be required. If so, additional funds from the Parking Meter Fund will be requested at a future Town Meeting.

- Information Technology: The Town continues to invest in technology in order to improve departmental operations, enhance citizens' interaction with their local government, and realize efficiencies. Often times, a relatively small investment in IT can yield significant results, whether they be a decrease in operating expenses, an improvement in service delivery, or an improvement in a resident's experience in

conducting business with a department. A primary example of this is the BrookONLine portal, which transforms the way residents transact and interact with town government via three offerings:

- *BrookONLine Information* – this is the place to stay informed. Anyone interested in receiving notification of meetings or signing up for Twitter Feeds can register and create a profile. Unlike the prior email listservs, which resulted in receiving notice of all meetings, this feature allows for the choosing of specific board / commission meeting notices. Other information sources are available, including Police, Recreation and Transportation tweets, news regarding specific libraries, and BHS PTO email lists.

- *BrookONLine Notifier* – this application empowers citizens to directly notify the proper town department of needed repairs (potholes, streetlights, etc.) via a smartphone (iPhone or Android). Once downloaded for free, "citizen reporters" can report and receive updates on submitted requests, which are automatically routed to field staff for investigation. In addition, all submitted requests are posted on-line so the status of the requests are available for all to see.




- *BrookONLine Payments* – this new payment service offers a centralized payment portal. While residents have been able to pay bills on-line for a decade, this enhanced bill payment system allows for paperless billing, the setting up of automated payments, and the viewing of payment history.

Other IT initiatives include the following:

- *Permitting System (GeoTMS) and Credit Cards* – The now two-year old town-wide permitting system is being leveraged to offer residents conducting business with the Transportation Division of DPW the ability to pay for various parking permits, moving signs, etc. via credit card over-the-counter. The U.S. Census Bureau estimates that there are more than 1.4 billion credit cards currently in circulation in the U.S., meaning that there are about 4.5 credit cards for every person in the United States, or an average of 7.7 credit cards for each of the 181 million people who actually hold credit cards. Those 181 million people represent approximately 77% of the adult population of the U.S. The Federal Reserve reports that credit cards are used more than 20 billion times a year in the U.S., with the total value of these transactions at $1.9 trillion. Based on the number of transactions and the number of credit card holders, the average card holder uses a credit card 119 times a year, for transactions averaging $88 apiece. This comes to an average annual total of about $10,500 in credit card purchases. Clearly, the use of credit cards is an expected form of payment by consumers. Whether it is at the local grocery store, at the car dealer, or at the doctor's office, the ability to pay for goods and services with a credit card is almost expected, and that expectation is making its way into government.

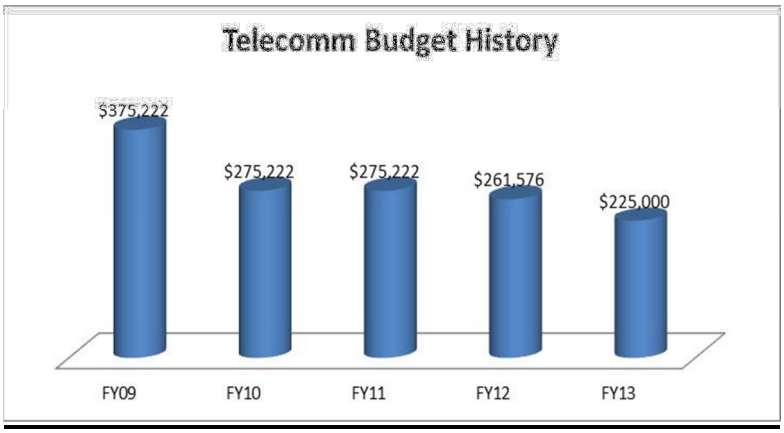
  In addition to the Transportation Division, Brookline has taken steps in this direction by offering this form of payment in the Treasurer/Collector' Office, the Town Clerk's Office, the Fire Prevention Office, the Recreation Department, the golf course, and at the multi-space parking meters. In FY13, the Building Department plans on being the next department to accept credit cards, something the Building Commissioner expects to be well-received by contractors. With this convenience, however, comes an expense: the estimate for credit cards costs associated with the payment of building permits is $60,000. If the Town is to continue to offer this service, we must acknowledge the costs and determine whether they should be absorbed in the budget or recovered through fees, either through a surcharge or incorporated within the overall fee schedule.

- *Public Safety Network Upgrade* – The Brookline Public Safety network was recently upgraded to provide additional capacity and redundancy. With a greater emphasis on Homeland Security and regional collaboration, the ability to provide access and to share information between Public Safety departments and personnel is critical in efforts to best protect the community.

  To best support the technology, a significant cabling upgrade was implemented in the Public Safety Building and in all Fire Stations. The newer cabling will allow for expanded technology implementation and higher data transmission to all locations. The upgraded infrastructure now allows for better integration with Town resources, adjacent communities and state Public Safety data sources to ensure anywhere/anytime access to real-time information. Moreover, recently implemented mobile applications now allow for field access to critical information and remote connectivity.

- *Telecomm Expenses / VoIP* – In CY09, the Town moved to a Voice over IP (VoIP) telecommunication system, resulting in an immediate $100,000 savings in

FY10. In FY12, an additional $10,000 of savings was realized, and this FY13 budget assumes another $35,000 in savings. In addition, the VoIP system can be leveraged to replace old intercom systems in the schools, a critical public safety component in those facilities. Funding is included in the CIP for this purpose, which is a more cost-effective solution than attempting to repair the aging, out-of-date systems.




- *Fire Department Records Management System (Firehouse)* – The recently procured Firehouse application will serve as the platform to connect all operations within the Fire Department including response, inspection, asset management, training and reporting. The new application will have direct integration with the existing 911 Dispatch center for receipt of critical information needed for mobilization and response. The integration between the Records Management System (RMS) and the Computer Aided Dispatch (CAD) system will ensure that first responders have access to real-time information such as location hazards, occupancy considerations, and GIS data. The recently upgraded apparatus-based laptops are able to connect to the Internet via the Town's WiFi system and ensure that the speed and performance are secure and robust.

- *Radio Frequency Equipment Upgrades (Narrowbanding)* - Public safety communications continue to evolve as more challenging user requirements and technology considerations put pressure on municipalities and their local public safety organizations to enhance and improve their systems. Public safety voice communications have been the predominant mission critical communications "need" historically and, to keep pace with federal mandates, a significant upgrade to the existing radio technology used by the Fire, Police, and Public Works departments is required. The newer technology now allows for better separation of channels for use locally and between departments. In addition, regional channels now allow for better communication during events between multiple state, local and federal departments. This improvement in technology ensures consistency and compliance with new regulations.

- *Selectmen's Agendas / Meeting Minutes software (Sire)* – This new application has simplified the time-consuming process of putting together the weekly Selectmen's agenda and supporting material while at the same time improving the on-line availability of meeting materials and minutes. Once fully rolled-out,

Selectmen's minutes from the past 50+ years will be accessible and searchable via the web. So while this positively impacted the Selectmen's Office by making the process more efficient, it also is enhancing transparency.

- *On-line Water Usage Monitoring* – This FY 2013 Financial Plan includes $70,000 for an upgrade to the meter reader system software and server. This needed upgrade comes with an added benefit: the new software allows for ratepayers to view usage data real-time 24 hours a day / 7 days a week, a feature residents have been requesting for a couple of years.

- Expanded Revenues: The Town consistently seeks new or expanded sources of revenue, especially when that revenue can be derived from users of specific services. This budget includes revenue ($9,000) from the leasing of parking spaces in the Town Hall Garage.

  Another recommendation from the Collins Center's study of the Planning Department is to raise certain regulatory fees for development. The consultant surveyed fee schedules for several communities and identified certain permits (e.g. wireless telecommunications facilities) that were extremely low in Brookline. A specific schedule of fees will be proposed to the Board of Selectmen for their approval to take effect in FY 2013.

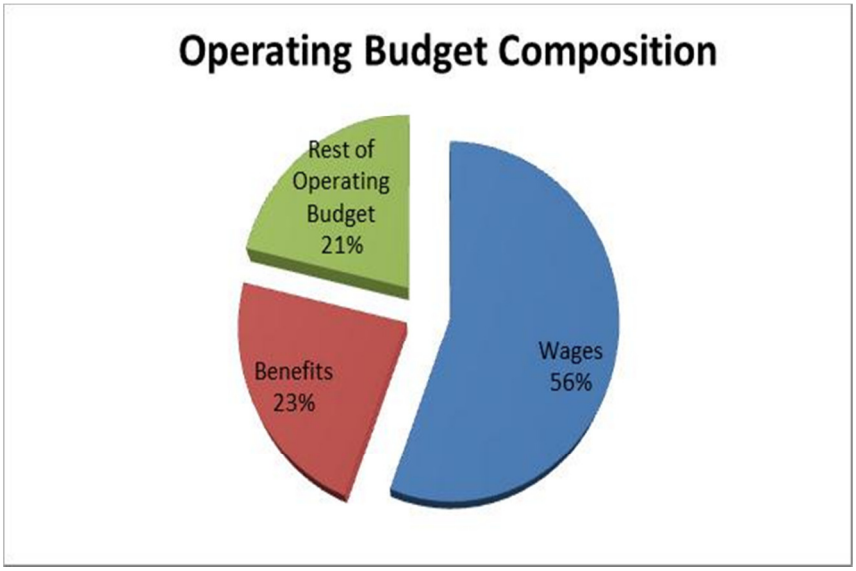
  The Town Administrator has begun a dialogue with the Trustees of Walnut Hill Cemetery about the level of revenue they allocate to support the on-going operation and maintenance of this beautiful facility. Currently, the Trustees authorize $50,000 in fee revenue annually to support the facility and have contributed to two capital projects in recent years. We will be researching the relevant statutory requirements on cemetery finances before making any conclusions, but it is likely that the Town Administrator will seek additional financial support for the facility in the future, either in annual operations or in more regular capital improvements.

  The effort to secure Payment in Lieu of Taxes (PILOT) agreements with tax exempt institutions continues to be a major focus of the Town. We are pleased to report that the Finance Director has been able to negotiate four new agreements that, when combined with existing PILOT agreements, provide the Town with nearly $600,000 in FY 2013. These agreements are designed to increase the payment over time.

  We expect that conversion to the Taxi Medallion system will take place in FY 2013. However, the revenue generated by this program will be set aside in a separate fund established by the Legislature, to be accessed by Town Meeting in the future for non-operating purposes.

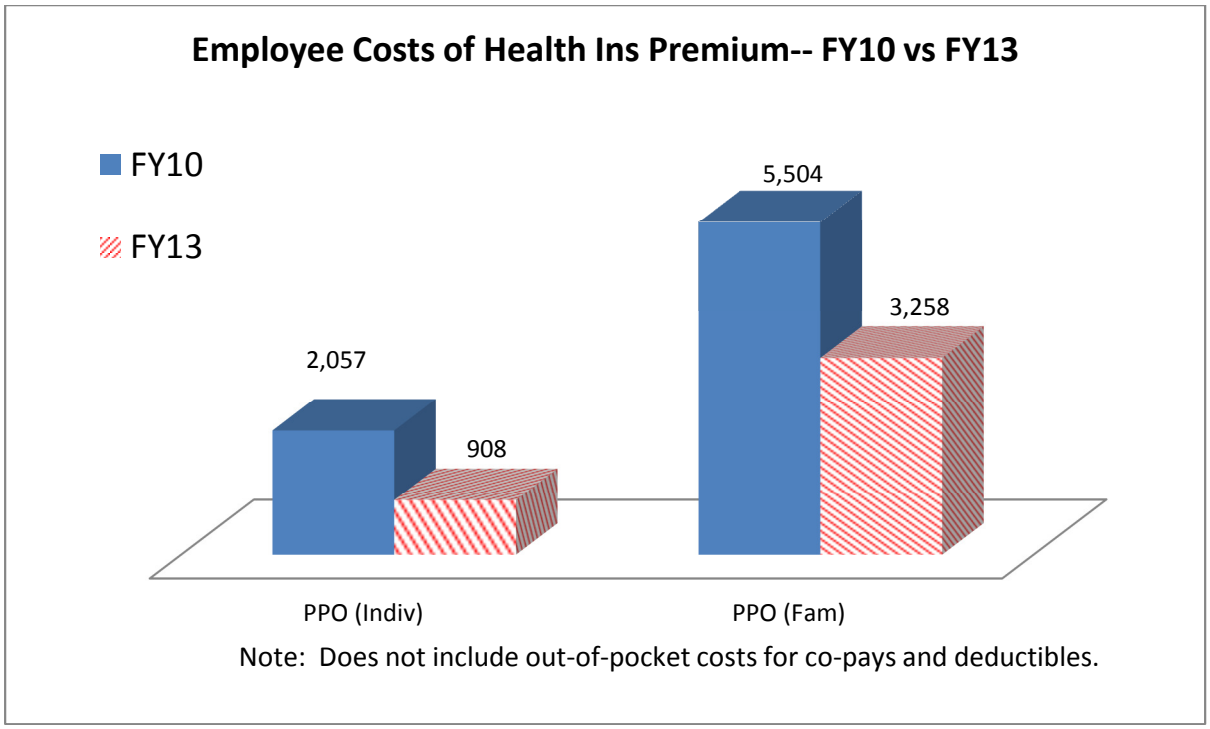
  Finally, the Town Administrator will be proposing a fee schedule for municipal and school employees for use of the Town's recreational facilities, which we believe is more reasonable than what is currently charged. The Town expends a great deal of money on operating and maintaining these facilities, and it behooves the Town to review the employee fee schedule on a more regular basis.

- Employee Compensation and Benefits: As a service delivery organization, the Town is highly reliant on its personnel. Over three-quarters of the Town's budget is made up of costs related to employee salaries/wages and benefits. As a result, a great deal of time and effort is spent on controlling costs while ensuring that the Town provides a reasonable and competitive level of compensation.




With the move to the state's Group Insurance Commission (GIC) in 2010, the Town took a significant step towards health insurance cost control. In addition to the initial savings, the annual rate of increase with the GIC has been far lower than the Town experienced in the past. The savings due to the lower premiums has been so significant that employees continue to see savings even though the GIC plans introduced deductibles and higher co-payments. Further, these higher co-pays and deductibles are having a secondary effect of making subscribers better health care consumers, which will continue to lower our health care costs. The greater variety of health plan options also enables our employees to choose a health care plan that better fits their specific needs.

The change to the GIC required a 70% approval of a Public Employee Committee (PEC), comprised of a representative from each union and a retiree representative. These negotiations involved a long and difficult process in which the Town agreed to gradually increase the share of premiums it pays, culminating in an 83% share that will take effect in FY 2013. The Town also agreed to fund a Health Reimbursement Account (HRA) that reimburses employees for certain high out-of-pocket costs for one year. The terms of the initial HRA expired on June 30, 2011, and the Town and PEC engaged in protracted negotiations over its possible extension. In December, the Town and the PEC reached agreement on the continuation of the HRA for the remainder of the three-year GIC agreement. For years two and three of the GIC agreement, the cost exposure for the HRA has been reduced from $225,000 to $175,000 and $150,000 respectively. In addition, the reimbursements for Outpatient Surgery and Durable Medical Equipment were reduced.




The Town agreed to absorb the full cost of administering the companion Flexible Spending Account (FSA) for our employees during the recent round of negotiations. At an administrative cost of $3/employee per month, this program allows employees to set aside funds from their pay on a pre-tax basis to cover out of pocket medical expenses. This is another initiative whose goal is to encourage employees to become better consumers of health care goods and services. Using a debit card linked to their account, an employee never has to use cash to meet most of their out of pocket expenses. It is our sense that the psychological effect of using cash to pay for these expenses has created much of the negative feedback on the GIC, despite the overall cost savings for the majority of employees. By committing to this cost, we were able to achieve a settlement of the HRA dispute while at the same time creating an opportunity for much greater participation in the FSA.

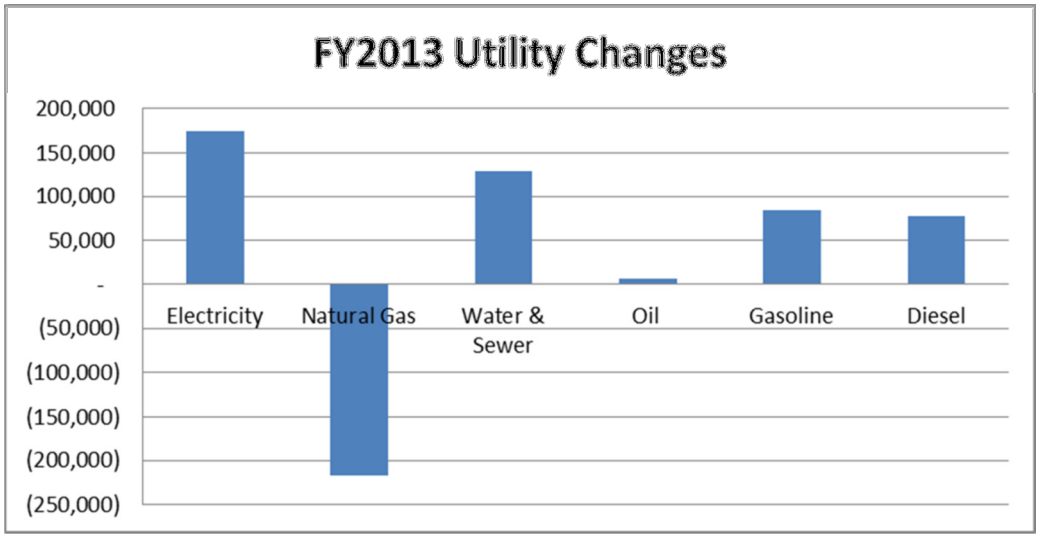
Finally, the Town committed to discussing possible expansion of the HRA for employees experiencing extraordinary costs resulting from chronic, serious medical conditions. Any specific program would be subject to negotiation and in all cases must be within the annual maximum cost exposure of the HRA. We understand and respect the challenges that some of our employees experience due to chronic or unforeseen catastrophic events and we will continue to work with these employees to reduce their unanticipated costs when possible.

In response to the continued poor economic climate and intense focus on public employee compensation, the Town has exercised extreme 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 reached agreement with most of its unions on a 1.5% increase in general salaries/wages for both FY 2011 and FY 2012, recognizing that many

employees would see increases in their overall compensation due to the savings from their lowered health care premiums. For the FY 2013 Budget, we have reserved funding to support a modest increase in wages.

After a long and difficult set of negotiations, the Town and the Firefighters union have reached a tentative three-year agreement, retroactive to FY 2010. We are pleased to report that this agreement includes a modified duty provision that allows the Town to assign injured firefighters in a modified assignment to support their recuperation and to gain productivity. We are hopeful that this new system will lessen the overtime costs associated with Injured on Duty (IOD) leave. We are also exploring an initiative with Boston University to develop a fitness program specifically geared toward the strenuous work of a firefighter. Meanwhile, the overtime costs and other medical expenses for IOD leave in the Fire Department have been significant in FY 2012 and a Reserve Fund transfer for overtime will likely be required. For FY 2013, we are also proposing an additional $185,660 to supplement the Public Safety IOD Medical Expenses Trust Fund.

- Energy Conservation and Efficiency: At the start of FY 2012, Brookline was designated a "Green Community" by the Department of Energy Resources' Green Community Division. This designation was the culmination of a series of efforts made by Town staff and citizens to establish the Town as a clean energy leader and allows the Town to be eligible for municipal renewable power and energy efficiency grants. The Town received its first award of $215,050 under this grant program to complete several energy efficiency projects. It will be important to continue efforts such as these to try to stem growth in consumption and mitigate rising energy prices.




This past year the DPW used federal stimulus fund to purchase and install 60 LEDs in a residential neighborhood in South Brookline and additional LEDs were installed as part of the Harvard Street reconstruction project. In addition to being energy efficient, LEDs provide a cleaner light that improves night visibility and also reduces maintenance costs due to a longer lifespan. An additional 44 replacements are planned for North Brookline using a portion of the Town's Green Community funding. This technology is being tested in other nearby communities with much success, and as the

cost of the fixtures combined with utility incentives make replacement a worthwhile alternative, additional locations will be sought for replacement.

Although the utility budgets need to be adjusted to account for expanded Runkle and Heath Schools, smart energy design incorporated into these projects have lessened the impact that additional square footage might have required. The Town's lower natural gas contract that begins in October, 2012 also provided significant relief to the Utility budget as a whole.

The Town is in a fixed contract for Electricity through December, 2015. Although the current contract provides a lower supply price than the previous contract, a small increase in delivery costs is assumed in FY 2013, resulting in a 7% increase projected in Electricity. FY 2013 will be the second year that water and sewer usage for Town and School facilities reside in the General Fund instead of through the Enterprise Fund as was previously the practice. As departmental billing has progressed, some adjustments had to be made to estimates based on more accurate readings on Town accounts, resulting in a 29% increase, which is mainly in the DPW budget for parks/playgrounds.

Vehicle fuel is also expected to increase in FY 2013. The projected increase takes into account the fact that FY 2012 budgeted pricing was lower than the actual bid prices that were finalized after the budget was set. Fortunately, the lack of snow to date has meant fewer trucks driving around plowing and sanding, offsetting what may be needed for an increase this year. This spring, the Town will go out to bid for FY 2013 and hopes to lock in at more favorable prices.

- Free Cash and Reserves: The FY 2013 budget represents the first year of the Town's revised Fiscal Policies on CIP funding, Reserves, and use of Free Cash. Last year, $5.38 million of the $7.1 million in certified Free Cash was appropriated, leaving $1.7 million unallocated to maintain sufficient "unrestricted" reserves. This was done in response to pressure by Moody's Investors Services who, over the past few years, expressed concern over the downward trend of the Town's undesignated fund balance (UFB). It is generally recommended by Moody's that 10% of general fund revenues be maintained as unrestricted reserves. That recommendation to retain a portion of Free Cash was a deviation from the Free Cash Policy and, as a result, the Town Administrator recommended that the Fiscal Policy Review Committee (FPRC) be reconvened to review the issue.

  On January 13, 2011, the Board of Selectmen appointed members to the Committee and provided them with a charge of "To review, affirm and revise as necessary the existing financial policies of the Town. The Committee shall also review the need for a new policy regarding Unreserved Fund Balance in order to preserve the Town's Aaa Bond rating." The Committee met six times between February 9, 2011 and May 9, 2011 and took the following actions to the Selectmen as part of a final set of revised policies on May 17th:

1.) We support the Town Administrator's budget recommendation for FY2012 to withhold the allocation of $1.7 million from Free Cash in order to bolster the Town's year-end fund balance.

2.) We recommend that UFB be formally considered a priority in the Town's fiscal policies. Specifically, we propose that the allocation of Free Cash be done in a manner that ensures the Town's year-end UFB not fall below an amount equivalent to 10% of General Fund revenues.

3.) We recommend a simplification of the Capital Improvement Plan (CIP) financing policy by consolidating separate revenue sources into an overall allocation of 6.0% of prior year net revenue. In addition, we recommend that the Free Cash policy formally target total capital spending to represent 7.5% of prior year net revenue.

4.) We acknowledge the arbitrary nature of the current allocation formula of Free Cash to the Affordable Housing Trust Fund and recommend that future allocations be made on a need-based formula, with need defined as the fund balance being less than $5 million. For FY2012, we support the Town Administrator's allocation of $355,264 to the Fund.

5.) We recommend that long-term funding of the Town's unfunded financial liabilities, including Employee Pensions and OPEB's, be adopted as a formal fiscal policy of the Town.

The following tables show how this budget complies with the policies regarding use of Free Cash, CIP funding, and Reserves:

FREE CASH/RESERVES

| **Free Cash Certification** | **$7,086,413** |
|---|---|
| 1. Operating Budget Reserve (25% of Operating Budget Reserve) | $486,736 |
| 2. Unreserved Fund Balance (left unappropriated) | $1,750,000 |
| 3. Liability Reserve (to get fund to 1% of Prior Yr Net Revenue) | $253,669 |
| 4. Capital Improvements (to get to 7.5% of Prior Yr Net Revenue) | $2,920,254 |
| 5. Affordable Housing Trust Fund (since Fund Balance below $5M) | $251,363 |
| Sub-Total | $5,662,023 |
| Amount available for Special Use (#6) | $1,424,390 |
| 6. Special Use: | |
| Additional CIP | $1,027,474 |
| OPEB's | $211,256 |
| Public Safety IOD Medical Expenses Trust Fund | $185,660 |

CIP FUNDING

| | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|---|---|---|---|---|---|---|
| 6% Policy | 11,681,838 | 12,003,529 | 12,381,849 | 12,841,939 | 13,293,072 | 13,684,004 |
| Net-Debt * | 8,356,066 | 8,678,649 | 8,375,919 | 8,846,684 | 10,754,860 | 12,316,322 |
| Pay-as-you-Go | 3,325,771 | 3,324,879 | 4,005,929 | 3,995,255 | 2,538,212 | 1,367,682 |
| Free Cash | 2,920,254 | 3,003,534 | 3,098,193 | 3,213,297 | 3,326,164 | 3,423,982 |
| Sub-Total | 14,602,092 | 15,007,062 | 15,480,041 | 16,055,235 | 16,619,236 | 17,107,986 |
| CIP as a % of Prior Yr Net Rev Per Policy | 7.5% | 7.5% | 7.5% | 7.5% | 7.5% | 7.5% |
| ADDITIONAL REVENUE | | | | | | |
| Additional Free Cash | 1,027,475 | 0 | 0 | 0 | 0 | 0 |
| Re-Approp. | 560,000 | 0 | 0 | 0 | 0 | 0 |
| Sale of Town Land | 3,250,000 | 0 | 0 | 0 | 0 | 0 |
| Parking Meter Receipts | 100,000 | 0 | 0 | 0 | 0 | 0 |
| Sub-Total | 4,937,475 | 0 | 0 | 0 | 0 | 0 |
| TOTAL REVENUE | 19,539,567 | 15,007,062 | 15,480,041 | 16,055,235 | 16,619,236 | 17,107,986 |
| TOTAL CIP as a % of Prior Yr Net Rev | 10.0% | 7.5% | 7.5% | 7.5% | 7.5% | 7.5% |

* Defined as General Fund debt less debt supported by a debt exclusion.

We again want to thank each member of the Committee, as they sacrificed their valuable time to assist the Town with a set of complex issues. As previously noted, this FY 2013 budget is built on their recommendations, which were unanimously approved by the Board on June 28, 2011.

- Other Efficiencies and Initiatives: There are a number of smaller initiatives built into the FY 2013 Budget designed to reduce costs and/or increase productivity. They include:

  - *Veterans Services* - We have proposed a modest temporary employment program for eligible veterans in the amount of $25,000. Younger veterans returning home from deployment in the war are experiencing unique and difficult challenges. Ultimately, the Town may have to fund benefit costs associated with these veterans, so we believe temporary employment opportunities in municipal departments will help these veterans with their transition, reduce long-term benefit costs and provide some much needed support in certain Town programs.

  - *Council on Aging* - We have re-evaluated the Town's practice of leasing the Council's ElderBus. The five-year lease for the current vehicle expires in FY 2013, and we have decided to purchase a new bus for $65,000 rather than pay the $22,000 annual lease payment. This will result in a payback over 3-4 years.

While the costs of maintaining the vehicle were included in the prior lease, the DPW has committed to maintaining the vehicle with their in-house staff.

- *Payroll* - We will be implementing conversion of the Town's payroll function from a contracted service to in-house using the existing MUNIS system for a number of reasons, including:

  1.) The cost of the current contractual model is expensive, especially considering the extent of the payroll processing already being performed by the Town's departmental staff and the Payroll division.

  2.) Many of the Town's basic financial systems are already on MUNIS, allowing for integration and coordination of the payroll function and allowing for a common user interface.

  3.) The MUNIS payroll package, while clearly not a comprehensive solution to the Town's human resources needs, does provide some functionality that the Town (and School Department) lacks. Utilizing this functionality would enhance management information and capacity and reduce redundancies, while creating a building block for the future.

  4.) Bringing the function in-house will allow the Town to exercise more control over the process and lessen the costs and effort associated with future changes.

  5.) MUNIS is employed by several area municipalities, creating a network of common users to help train employees, troubleshoot problems and share resources during emergencies.

## LONG-RANGE FINANCIAL PLANNING

The cornerstone of the Town's 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 provides decision makers, taxpayers, and employees with an understanding of the long-term financial challenges the Town faces. In late-November / early-December, the Deputy Town Administrator and the Director of Finance present the Forecast to the Board of Selectmen. This presentation is the culmination of months of work for those two individuals, work involving the analysis of hundreds of revenue and expenditure line-items, making assumptions about economic conditions, and understanding state budget conditions.

The FY 2013 – FY 2017 Long Range Financial Projection for the General Fund makes the following key assumptions:

- In FY 2013 and FY 2014, $1.6 million of New Growth in the Property Tax Levy. In FY 2015-2016, a base of $1.6 million, augmented by additional levy growth from the 2 Brookline Place re-development. In FY 2017, $1.7 million of New Growth.

- For State Aid in FY 2013, use the Governor's budget proposal, which increases Ch. 70 aid by $2 million and level-funds Unrestricted General Government Aid (UGGA). For FY 2014, level-funding of all aid categories. For FY 2015-FY 2017, annual 2.5% increases in Ch. 70 and UGGA.

- For Local Receipts, FY 2013 reflects an increase of $808,000 (4%). In FY 2014-FY 2016, limited growth is expected (approximately $300,000 / yr, or 1.5%). (A decrease in Ch. 121A payments is expected in FY 2017 due to the expiration of an agreement; those monies become part of the Property Tax base in that year.)

- Use of Free Cash continues to follow the Town's Free Cash Policy, as recently updated by the Selectmen in 2011.

- A modest wage increase for all years for all municipal unions and increases as called for in the most recent contract with the teacher's union for FY 2013 and FY 2014, followed by similar wage increases for all school unions for FY 2015-2017.

- Inflation in most Services, Supplies, and Capital Outlay accounts of 1.5% - 2.5% (approximately $200,000 per year for the Schools and $250,000 for Town departments).

- Annual utility increases of $200,000.

- Annual Special Education growth of $750,000.

- Enrollment growth cost increases of $500,000 per year.

- Step increases in the School Department of $600,000 per year and $250,000 per year for Town Departments.

- FY13 Health Insurance rate increase of 2%, additional enrollment of 30, and an increase in the Town's share of the premium from 80% to 83%. For FY 2014-2017, assume 30 new enrollees per year and a declining annual rate increase (8% in FY 2014, 5% in FY 2017).

- A Pension appropriation based on the most recent funding schedule approved by PERAC (began in FY 2012 and concludes in FY 2013).

- Debt Service and pay-as-you-go CIP that reflects full-funding of the CIP (6% of net revenue plus the use of Free Cash to get to 7.5%).

These assumptions create an escalating deficit position for FY 2014 and beyond, starting at $3 million in FY 2014 and reaching $7.8 million by FY 2017. It should be noted that the 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:

| | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|
| **REVENUE** | | | | | |
| **Property Taxes** | **169,848,463** | **175,275,897** | **182,411,574** | **189,226,104** | **195,852,256** |
| **Local Receipts** | **21,084,438** | **21,257,676** | **21,534,115** | **21,988,477** | **21,616,518** |
| Motor Vehicle Excise (MVE) | 4,850,000 | 4,947,000 | 5,045,940 | 5,146,859 | 5,249,796 |
| Local Option Taxes | 1,950,000 | 1,989,000 | 2,028,780 | 2,069,356 | 2,110,743 |
| Licenses & Permits | 1,153,975 | 1,153,975 | 1,153,975 | 1,153,975 | 1,153,975 |
| Parking / Court Fines | 4,000,000 | 4,000,000 | 4,000,000 | 4,000,000 | 4,000,000 |
| General Government | 2,873,463 | 2,940,251 | 3,009,348 | 3,082,342 | 3,159,906 |
| Interest Income | 760,000 | 779,000 | 798,475 | 818,437 | 838,898 |
| PILOT's | 1,110,000 | 1,021,200 | 1,047,624 | 1,244,276 | 606,162 |
| Refuse Fee | 2,600,000 | 2,600,000 | 2,600,000 | 2,600,000 | 2,600,000 |
| Departmental & Other | 1,787,000 | 1,827,250 | 1,849,974 | 1,873,232 | 1,897,039 |
| **State Aid** | **14,806,425** | **14,776,057** | **15,124,335** | **15,481,321** | **15,847,231** |
| General Government Aid | 5,089,224 | 5,089,224 | 5,213,768 | 5,341,425 | 5,472,274 |
| School Aid | 9,569,484 | 9,539,116 | 9,762,851 | 9,992,178 | 10,227,239 |
| Tax Abatement Aid | 38,557 | 38,557 | 38,557 | 38,557 | 38,557 |
| Offset Aid | 109,160 | 109,160 | 109,160 | 109,160 | 109,160 |
| **Other Available Funds** | **10,144,344** | **6,435,511** | **6,569,391** | **6,695,603** | **6,823,483** |
| Parking Meter Receipts | 3,950,000 | 3,950,000 | 3,950,000 | 3,950,000 | 3,950,000 |
| Walnut Hill Cemetery Fund | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 |
| State Aid for Libraries | 41,555 | 41,555 | 41,555 | 41,555 | 41,555 |
| Reimb./Pymts from Enterprise Funds | 2,011,024 | 2,093,971 | 2,206,549 | 2,318,514 | 2,431,322 |
| Reimb. from Rec Revolving Fund | 281,764 | 299,985 | 321,287 | 335,534 | 350,605 |
| Capital Project Surplus | 560,000 | 0 | 0 | 0 | 0 |
| Sale of Town-owned Land Fund | 3,250,000 | 0 | 0 | 0 | 0 |
| **Free Cash** | **5,336,413** | **3,750,000** | **3,750,000** | **3,850,000** | **3,950,000** |
| Capital Improvements/Other Spec Approp. | 3,947,729 | 3,036,688 | 3,127,157 | 3,242,985 | 3,356,591 |
| Operating Budget Reserve | 486,736 | 506,115 | 521,193 | 540,497 | 559,432 |
| Strategic Reserves | 901,948 | 207,197 | 101,650 | 66,518 | 33,977 |
| **TOTAL REVENUE** | **221,220,083** | **221,495,141** | **229,389,416** | **237,241,505** | **244,089,488** |
| $$ Increase | 12,341,008 | 275,059 | 7,894,275 | 7,852,089 | 6,847,983 |
| % Increase | 5.9% | 0.1% | 3.6% | 3.4% | 2.9% |

| | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|
| **EXPENDITURES** | | | | | |
| **Departmental** | **63,917,909** | **65,486,540** | **67,228,574** | **68,836,659** | **70,560,946** |
| Personnel | 46,256,109 | 47,346,109 | 48,646,109 | 49,806,109 | 51,076,109 |
| Services | 8,130,839 | 8,323,792 | 8,478,006 | 8,636,075 | 8,798,096 |
| Supplies | 2,036,202 | 2,087,108 | 2,139,285 | 2,192,767 | 2,247,587 |
| Other | 482,690 | 494,757 | 507,126 | 519,804 | 532,799 |
| Utilities | 5,383,640 | 5,583,640 | 5,783,640 | 5,983,640 | 6,183,640 |
| Capital | 1,608,428 | 1,631,134 | 1,654,408 | 1,678,264 | 1,702,716 |
| Intergovernmental | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 |
| **Coll. Barg. - Town** | **940,000** | **950,000** | **960,000** | **970,000** | **1,110,000** |
| **Schools** | **77,349,602** | **80,749,602** | **85,089,602** | **89,069,602** | **92,519,602** |
| **Coll. Barg. - School** | **1,300,000** | **2,240,000** | **1,880,000** | **1,350,000** | **1,400,000** |
| **Non-Departmental - Benefits** | **45,577,507** | **47,950,275** | **50,965,342** | **53,965,320** | **56,823,294** |
| Pensions | 15,422,765 | 16,270,948 | 16,967,741 | 17,697,239 | 18,460,915 |
| Group Health | 23,433,155 | 25,054,916 | 26,952,055 | 28,724,620 | 30,327,315 |
| Health Reimbursement Account (HRA) | 125,000 | 0 | 0 | 0 | 0 |
| Retiree Group Health Trust Fund (OPEB's) | 2,601,928 | 2,715,461 | 3,042,300 | 3,372,776 | 3,707,557 |
| EAP | 28,000 | 28,000 | 28,000 | 28,000 | 33,000 |
| Group Life | 150,000 | 153,750 | 157,593 | 161,533 | 165,571 |
| Disability Insurance | 16,000 | 16,000 | 16,000 | 16,000 | 16,000 |
| Workers' Compensation | 1,200,000 | 1,225,000 | 1,250,000 | 1,300,000 | 1,332,500 |
| Public Safety IOD Medical Expenses | 560,660 | 375,000 | 375,000 | 375,000 | 375,000 |
| Unemployment Compensation | 350,000 | 300,000 | 250,000 | 250,000 | 250,000 |
| Medical Disabilities | 30,000 | 35,000 | 35,000 | 35,000 | 40,000 |
| Medicare Coverage | 1,660,000 | 1,776,200 | 1,891,653 | 2,005,152 | 2,115,436 |
| **Non-Departmental - General** | **960,761** | **527,841** | **524,275** | **556,496** | **575,423** |
| Liability/Catastrophe Fund | 253,669 | 58,044 | 39,714 | 56,441 | 54,108 |
| Stabilization Fund | 0 | 0 | 0 | 0 | 0 |
| Affordable Housing | 251,363 | 0 | 0 | 0 | 0 |
| General Insurance | 275,000 | 288,750 | 303,188 | 318,347 | 334,264 |
| Audit/Management Services | 130,000 | 130,000 | 130,000 | 130,000 | 135,000 |
| Misc. | 50,729 | 51,047 | 51,374 | 51,708 | 52,051 |
| **Non-Departmental - Debt Service** | **10,046,874** | **9,670,636** | **9,363,706** | **9,817,670** | **11,719,292** |
| General Fund | 10,046,874 | 9,670,636 | 9,363,706 | 9,817,670 | 11,719,292 |
| **Non-Departmental - Reserve Fund** | **1,946,946** | **2,024,459** | **2,084,771** | **2,161,990** | **2,237,727** |
| Tax Supported | 1,460,209 | 1,518,344 | 1,563,579 | 1,621,492 | 1,678,295 |
| Free Cash Supported | 486,736 | 506,115 | 521,193 | 540,497 | 559,432 |
| **Special Appropriations** | **11,183,500** | **6,685,605** | **7,423,828** | **7,531,105** | **6,169,820** |
| Tax Supported | 3,325,772 | 3,648,917 | 4,297,201 | 4,288,550 | 2,813,678 |
| Free Cash Supported | 3,947,729 | 3,036,688 | 3,126,627 | 3,242,555 | 3,356,142 |
| Parking Meter Revenue | 100,000 | 0 | 0 | 0 | 0 |
| Capital Project Surplus | 560,000 | 0 | 0 | 0 | 0 |
| Sale of Town-owned Land Fund | 3,250,000 | 0 | 0 | 0 | 0 |
| **Non-Appropriated** | **7,996,982** | **8,184,052** | **8,375,798** | **8,572,338** | **8,773,791** |
| State Assessments | 6,162,822 | 6,307,392 | 6,455,575 | 6,607,464 | 6,763,149 |
| Cherry Sheet Offsets | 109,160 | 109,160 | 109,160 | 109,160 | 109,160 |
| Overlay | 1,700,000 | 1,742,500 | 1,786,063 | 1,830,714 | 1,876,482 |
| Tax Titles - Deficits/Judgements | 25,000 | 25,000 | 25,000 | 25,000 | 25,000 |
| **TOTAL EXPENDITURES** | **221,220,083** | **224,469,010** | **233,895,896** | **242,831,180** | **251,889,896** |
| $$ Increase | 12,341,010 | 3,248,926 | 9,426,886 | 8,935,284 | 9,058,716 |
| % Increase | 5.9% | 1.5% | 4.2% | 3.8% | 3.7% |

| | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|
| **CUMULATIVE SURPLUS/(DEFICIT)** | **0** | **(2,980,381)** | **(4,505,371)** | **(5,590,016)** | **(7,720,569)** |
| **DEFICIT AS A % OF OP REV** | **0.0%** | **-1.6%** | **-2.5%** | **-2.7%** | **-3.1%** |
| Surplus / (Deficit) Prior to Collective Bargaining | 2,240,000 | (183,480) | (1,898,970) | (3,562,826) | (5,568,195) |
| Town Share of Surplus / (Deficit) | 940,000 | 254,612 | 172,489 | 99,225 | (477,607) |
| Town Collective Bargaining | 940,000 | 950,000 | 960,000 | 970,000 | 1,110,000 |
| **Total Town Surplus / (Deficit)** | **0** | **(695,388)** | **(787,511)** | **(870,775)** | **(1,587,607)** |
| School Share of Surplus / (Deficit) | 1,300,000 | (438,093) | (2,071,459) | (3,662,051) | (5,090,588) |
| School Collective Bargaining | 1,300,000 | 2,000,000 | 1,875,200 | 1,350,000 | 1,390,000 |
| **Total School Surplus / (Deficit)** | **0** | **(2,438,093)** | **(3,946,659)** | **(5,012,051)** | **(6,480,588)** |

## 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 FY 1995, 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 FY 2013 - FY 2018 CIP calls for an investment of $153.9 million, for an average of approximately $25.7 million per year. This continues the Town's commitment to prevent the decline of its infrastructure, upgrade its facilities, improve its physical appearance, and invest in opportunities that positively impact the Operating Budget. Over the last 10 years (FY 2003 - FY 2012), the Town has authorized expenditures of more than $165.4 million, for an average of nearly $17 million per year.

It was a challenge to develop a balanced CIP that continues to reflect the various priorities of the Town while simultaneously addressing the overcrowding issue in the elementary schools. The overcrowding issue continues to be the most urgent CIP need, consuming more of the CIP and displacing / pushing back other projects. The facts are simple, yet daunting: what were recently Kindergarten classes of approximately 400 – 425 students are now classes of 550 – 600. As those classes move forward through the system, there will continue to be annual classroom space deficiencies. This not only results in immediate classroom space

needs in the elementary schools, it also means that the High School will begin a space crisis in 5-6 years. Obviously, the school district cannot turn away students who are legally entitled to an education in the Brookline system; therefore, a coherent and comprehensive plan to produce additional classroom space is imperative. This CIP includes the following items that address the space needs issue:

- $1.75 million is included in FY 2013 for Classroom Capacity. In both FY 2008 and FY 2010, Town Meeting appropriated $400,000 to address space needs. That $800,000 has been used to fund the costs associated with creating additional classroom spaces within existing school facilities. In FY 2011, Town Meeting appropriated an additional $530,000 to continue the necessary work, all of which has been committed. The proposed $1.75 million continues this program. It is projected to fund seven new classrooms in each SY12-13 and SY13-14. It could also go toward adapting the Old Lincoln School for continued classroom use, including for high school programs when the High School reaches its capacity in a few years. It could also go toward implementing recommendations from the High School Needs Study.

- The Devotion School project remains at $76.9 million, with funding for feasibility / schematic design ($1.9 million) in FY 2014 and funding for construction ($75 million) in FY 2015. A key component of the funding plan is MSBA participation, at an estimated rate of 40%. A 25-year term for the construction bond is anticipated, a term this Town has not used before. However, if the Town is to undertake this project without a Debt Exclusion Override while at the same time committing to other important capital projects, a 25-year amortization period is required. Without MSBA participation, this project will need a Debt Exclusion Override. Another critical factor of the Devotion project is it must increase classroom space. Without it, the district-wide overcrowding issue remains and, as a result, the MSBA will not participate.

  Whatever the final plan for the project is, it has a significant impact on the CIP. Due primarily to this project, the revenue-financed CIP in both FY 2017 and FY 2018 is low compared to the first four years. This then poses challenges to funding "standard" revenue-financed projects such as streets/sidewalks, park projects, and smaller-scale Town/School facility upgrades. In FY 2017, the project consumes $2.5 million in debt service; in FY 2018, it is $4.3 million.

- A new $50,000 item is included in FY 2013 for a High School Space Needs Study. As previously noted, enrollment pressure will begin hitting the High School around SY16-17 / SY17-18. Planning must begin immediately for this component of the overcrowding issue. The funding would be used to review all possible options for addressing the capacity needs of BHS. Solutions might range from relocating certain non-High School functions currently housed at BHS (Early Childhood, Adult Education, etc.) to utilizing the Old Lincoln School for high school purposes. No decisions have been made, but the range of options need to be tested in the context of current PreK – 12 town-wide space needs.

- In FY 2011, $100,000 was appropriated for an engineering conditions analysis of the outside areas of the Old Lincoln School, which were deteriorating. No estimate was available for the FY 2012 CIP, but the current estimate for the project is $500,000, which

is included in this CIP. It is important to undertake this project since it appears as though the Old Lincoln School is going to play a significant role in addressing the school overcrowding.

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 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. For example, even with the pressure placed on the CIP by the overcrowding issue and other high priority demands, this CIP continues the Town's commitment to upgrading its parks, playgrounds, and other open spaces. As proposed, this CIP renovates the following parks/playgrounds:

| | | | |
|---|---|---|---|
| -Waldstein (FY 2013) | -Warren (FY 2013) | -Brookline Ave (FY 2014/2015) | -Corey Hill (FY 2015/2016) |
| -Larz Anderson (FY 2015/2018) | -Soule (FY 2015/2016) | -Brookline Reservoir (FY 2016) | -Emerson Garden (FY 2017/2018) |
| -Harry Downes (FY 2017/2018) | -Murphy (FY 2018/2019) | -Schick (FY 2018/2019) | |

Also included in this CIP is $3.25 million (FY 2013) for the new Fisher Hill field/playground. This project is being funded from the proceeds of the sale of the nearby Town-owned reservoir site for the development of mixed-income housing on the site.

Some of the major projects proposed in the CIP include:

- Devotion School Rehab - $46.1 million of Town funding plus a possible $30.8 million in State funding (FY 2014-FY 2015)
- Newton St. Landfill (Rear Landfill Closure) - $4.6 million (FY 2015)
- Village Square - $4.5 million (FY 2014) - - all outside funding
- Fire Station Renovations - $3.3 million (all years)
- Fisher Hill Reservoir Re-Use - $3.25 million (FY 2013)
- Waldstein Playground & Warren Field - $2.3 million (FY 2013)
- Driscoll School HVAC - $2.2 million (FY 2016-FY 2017)
- Baldwin School - $2 million (FY 2014-FY 2016)
- Classroom Capacity – $1.75 million (FY 2013)
- Brookline Reservoir Park - $1.4 million (FY 2016)
- UAB - $1.3 million (FY 2013)
- Municipal Service Center Floor / Space – $1.1 million (FY 2013-FY 2014)

Continued major investments include:

- Street and Sidewalk Rehab - $17.2 million

- Parks and Open Space - $16.1 million
- General Town/School Building Repairs - $6.8 million
- Water and Sewer Infrastructure - $3.6 million
- Fire Apparatus - $3.4 million
- Information Technology - $1.6 million
- Recreation Facilities - $1.1 million
- Tree Replacement - $1.1 million
- Energy Conservation - $1 million

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

## CONCLUSION

This FY 2013 Budget represents a realistic approach to funding operating departments and for planning the Town's operating and capital needs over the next several years. The ability for the Town to plan ahead has been extremely useful in meeting the challenges of the economic recession and to facilitate information and consensus building for the years ahead. Central to this is the need to plan for increased enrollment in our public schools.

We are pleased that the financial condition of the Commonwealth of Massachusetts and the Town of Brookline are improving and can support a Budget in FY 2013 that maintains programs and services. However, we need to remain conservative in our budget approach and carefully follow the financial policies designed to protect the longer-term sustainability of the Town.

## 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 FY13 Budget. By a vote of 5-0, taken on May 2, 2012, the Selectmen recommend FAVORABLE ACTION on the motion offered by the Advisory Committee.

The Board would like to thank the Town Administrator and his staff and the Advisory Committee again for another excellent job on preparing and reviewing the Town's budget, paying particular attention to applying the Financial Polices that have guided Town budgeting over the past decade. The amount of time the Advisory Committee spent on reviewing the Financial Plan is simply remarkable. The willingness of the Advisory Committee, School Committee, this Board, and, ultimately Town Meeting, to work collaboratively throughout the budget process is a major reason why this community has been able to avoid a number of problems that other communities have had to address.

# TOWN OF BROOKLINE'S FISCAL POLICIES
# Adopted by the Board of Selectmen on June 28, 2011

## FREE CASH POLICIES

Free Cash shall not be used for Operating Budget purposes. It shall be utilized in the following manner and order:

1. 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 and as described in the Town's Reserve Policies.

2. Unreserved Fund Balance / Stabilization Fund – Free Cash shall be used to maintain an Unreserved Fund Balance plus Stabilization Fund in an amount equivalent to no less than 10% of revenue, as defined in the Town's Audited Financial Statements, with a goal of 12.5%, as described in the Town's Reserve Policies. If the Stabilization Fund were drawn down in the immediate prior fiscal year, then an allocation shall be made to the Fund in an amount at least equivalent to the draw down of the immediate prior fiscal year.

3. 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 described in the Town's Reserve Policies.

4. Capital Improvement Program (CIP) – remaining Free Cash shall be dedicated to the CIP so that total CIP funding as a percent of the prior year's net revenue is not less than 7.5%, to the extent made possible by available levels of Free Cash.

5. Affordable Housing Trust Fund (AHTF) – in order to support the Town's efforts toward creating and maintaining affordable housing, 15% of remaining Free Cash shall be appropriated into the AHTF if the unreserved fund balance in the AHTF, as calculated in the Town's financial system, is less than $5 million.

6. Special Use – remaining Free Cash may be used to augment the trust funds related to fringe benefits, unfunded liabilities related to employee benefits, including pensions and Other Post-Employment Benefits (OPEB's), and other one-time uses, including additional funding for the CIP and AHTF.

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## RESERVE POLICIES

The establishment and maintenance of adequate financial reserves provide the Town of Brookline with financial flexibility and security and is recognized as an important factor considered by bond rating agencies, the underwriting community and other stakeholders. 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 0.75% 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.

- **Unreserved Fund Balance / Stabilization Fund** – the Town shall maintain an Unreserved Fund Balance plus Stabilization Fund in an amount equivalent to no less than 10% of revenue, as defined in the Town's Audited Financial Statements, with a goal of 12.5%. If the balance falls below 10% at the end of the fiscal year, then Free Cash shall be used to bring the amount up to 10%, as described in the Free Cash Policy, as part of the ensuing fiscal year's budget. The Stabilization Fund shall be established under the provisions of MGL Chapter 40, Section 5B.

1. 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.

2. 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 #1a. 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 #1b. 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.

3. 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 described 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.

- **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

Planning, budgeting and financing for the replacement, repair and acquisition of capital assets is a critical component of the Town of Brookline's financial system. Prudent planning and funding of its capital infrastructure ensures that the Town can continue to provide quality public services in a financially sound manner. The development of a Capital Improvement Program (CIP) is the mechanism that the Town uses to identify projects, prioritize funding and create a long-term financial plan that can be achieved within the limitations of the Town's budget.

### 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.

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 - 6% OF NET REVENUES
Total net direct debt service and net tax-financed CIP shall be maintained at a level equivalent to 6% of prior year net operating revenues.

- TAX FINANCED ALLOCATION - 1.5% OF NET REVENUES
  Net tax-financed capital expenditures shall be maintained at a target level equivalent to 1.5% of prior year net operating revenues.

- DEBT-FINANCED ALLOCATION - 4.5% OF NET REVENUES
  Net direct debt service shall be maintained at a target equivalent to 4.5% of prior year net operating revenues.

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

- Debt financing for projects supported by General Fund revenue shall be reserved for capital projects and expenditures which either cost in excess of $250,000 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. For projects supported by Enterprise Fund revenue, debt financing shall be reserved for capital projects and expenditures that cost in excess of $100,000.

- 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 $2,385, which reflects $2,000 inflated annually since July 1, 2004. This amount shall continue to 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 to supplement the CIP so that total CIP funding as a percent of the prior year's net revenue is not less than 7.5%, to the extent made possible by levels of available free cash.

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## UNFUNDED LIABILITIES POLICY

Defined as "the actuarial calculation of the value of future benefits payable less the net assets of the fund at a given balance date", unfunded liabilities represent a significant financial obligation for all levels of government across the country. In Brookline and other Massachusetts municipalities, the two primary unfunded liabilities are for Pensions and Other Post-Employment Benefits (OPEB's).

- Pensions – the Contributory Retirement System is a defined benefit program that is governed by Massachusetts General Laws, Ch. 32 and is regulated by the Public Employee Retirement Administration Commission (PERAC), a State entity responsible for the oversight, guidance, monitoring, and regulation of Massachusetts' 105 public pension systems. Funding for this system covers the costs of employees who are part of the Town's retirement system, which does not include teachers, as their pensions are funded by the State.

  In accordance with State law, PERAC regulations and government accounting standards, the Town contracts for an actuarial valuation of the retirement system to quantify the unfunded liability on a biennial basis. Under current State law, the Town then establishes a funding schedule to fully-fund this liability by 2040. The Town shall continue to fund this liability in the most fiscally prudent manner, recognizing

the fact that the adoption of a funding schedule is, by law, the responsibility of the local retirement board.

- OPEB's – these consist primarily of the costs associated with providing health insurance for retirees and their spouses. The Government Accounting Standards Board (GASB) issued Statements No. 43 and No. 45 in 2004 to address the OPEB issue. GASB 43 required the accrual of liabilities of OPEB generally over the working career of plan members rather than the recognition of pay-as-you-go contributions, while GASB 45 required the accrual of the OPEB expense over the same period of time. The reporting requirements of GASB 43 and 45 include disclosures and schedules providing actuarially determined values related to the funded status of the OPEB. This requires that the accrued liabilities be determined by a qualified actuary using acceptable actuarial methods.

  While there is currently no legal requirement to fund OPEB's, the Town shall continue to follow its plan to move toward fully-funding the Annual Required Contribution (ARC), ultimately developing a funding schedule that fully-funds OPEB's according to a schedule similar to the pension funding schedule. This plan should continue to include annual increases in the portion of the appropriation supported by General Fund revenues. It should also include using the "run-off" from the pension system once that system is fully-funded. In order to determine the funding schedule, the Town shall continue its current practice of having an independent actuary prepare biennial valuations, which is in compliance with GASB's requirement.

## ADVISORY COMMITTEE'S RECOMMENDATION

**THE NEW WAVE**

Through a combination of staid discipline, perseverance and serendipity, our proposed FY'13 budget is on sounder footing than in previous years.

For the past several years Brookline has had to contend with a difficult economy and work hard to create maintenance-of-effort budgets. We have been far more successful than most other communities. This has been accomplished through a combination of revenue enhancements, budgetary reductions, reducing healthcare premium increases, addressing long-term obligations, and even passing a rare over-ride.

We looked squarely at our financial challenges and addressed them. The Town and its employees, recognizing that the accelerating increases in healthcare costs were unsustainable, opted into the GIC. We did not extend the funding schedule of our pension system to the limit as some other towns have, understanding that we cannot run the costs up even higher and simply push them off onto our children. We likewise addressed the looming OPEB obligation by establishing a structured, disciplined funding formula. Brookline is one of only a handful of communities to significantly address what some refer to as a ticking financial time bomb.

We have come together to meet our obligations, strengthen our finances, and sustain the future of Brookline.

These have been, and are, very significant challenges. Our next challenge, of equal or greater significance, is the changing demographic of Brookline. That is, families with many more young children. For the past several years incoming kindergarten classes have increased significantly --and there is no clear end in sight. Schools are being pushed beyond capacity and the strains are being felt in the budget. We expect the pressure will become even greater in the coming years.

Due to our increased enrollment, the Schools benefit from an additional $2M in Chapter 70 State assistance (built into the base) which is incorporated into the proposed FY'13 budget. Without this funding our budget would look drastically different.

Also, for the first time in years, State Aid has increased.

These last two items constitute "serendipity". We will not know the true levels of funding until the State budget is finally ratified; and some have expressed skepticism at the State's revenue assumptions. But, both the Legislature and the Governor have signaled their support for increased Aid to Towns and Cities and educational increases – and it is an election year. Therefore, we feel comfortable using these estimates in formulating our municipal budget.

**REVENUES AND EXPENSES**

This year's Total Revenue of more than $221M comes from a variety of sources. The Governor's proposed 2013 budget increases aid to towns and cities after years of steady decline. Projected State Aid accounts for $14.8M. On April 25 the House voted favorably

on a proposed budget that increased Local Aid above that suggested by the Governor; the value to Brookline could be an additional $400K. This figure, of course, may be modified as the State Budget works its way through the legislative process. Local Receipts increase 4% to just over $21M. This includes revenues from such things as building permits, various fees and fines, and interest income which, in this economic climate, is not a major contributing factor. State-certified Free Cash is $7.1M, $1.7M of that is left un-appropriated in order to maintain our operating reserves above 10% of our operating revenues. You will recall that the rating agency Moody's stated concerns about our "low" unrestricted fund balance. This addresses that issue and helps contribute to the Town's AAA credit rating. Free Cash available for appropriation in this year's budget, then, is $5.3M. After allocation to a variety of strategic reserves (e.g. Stabilization Fund, Operating Budget Reserve), $3M is available to our CIP, with an additional $1M in Free Cash used to augment funding of other projects – these projects are detailed in our CIP descriptions. The greatest contribution to our revenue of course, is property tax. Property tax increases prescribed within the bounds of Prop 2 ½, coupled with taxes generated from new development, increase the total property tax levy by 3.8% to $169.8M (representing nearly 77% of our Total Revenue).

These numbers underscore our heavy reliance on property tax revenues (primarily residential) and the importance of adequate State Aid.

Balancing against our revenue are Expenses.

Departmental Expenditures (approximately 2/3's of our total appropriated expenditures) increase by 3.6%. $64.9M is allocated to Town Departments and $78.6M to the School Department. Non-Departmental Expenditures total $58.5M and include such things as Employee Benefits (~3/4s of this category), Reserves, Insurance, and Debt Service (~17%). Additionally, there are Special Appropriations (CIP) of $11.2M (including $3.25M from the sale of the Town's Fisher Hill property) as well as Non-appropriated Expenses of ~$8M (including such things as State assessments and Cherry Sheet offsets).

$221.2M in Revenue is met by $221.2M in Expenditures. After allowing for the $8M in Non-Appropriated Expenses, we are left with a total of $213.2M for appropriation in FY'13.

While a budget-to-budget increase in Revenue of 5.9% may seem robust, keep in mind that this includes the one-time proceeds from the sale of the Town-owned land on Fisher Hill. Also, the 10.6% increase in State Aid, as appreciated as it is, is still more than $2M below what it was a half-dozen years ago. Many costs outpace the 3.8% rate of revenue increase from our primary source - property tax. The Town, its employees and Town Meeting have worked hard to reduce expenses and streamline efficiencies in the last few years, ensuring that our municipal operation can be maintained with our current revenue stream. This does not mean there are not continued pressures or structural funding gaps that we will need to address; there are. But, it demonstrates the benefits of focused, creative collaboration. An outline of revenues and expenditures follows:

**Revenues**

| | $ | % change |
|---|---|---|
| Property Tax | 169,848,463 | 3.8 |
| Local Receipts | 21,084,438 | 4.0 |
| State Aid | 14,806,425 | 10.6 |
| Free Cash | 5,336,413 | (0.8) |
| Other Funds | 10,144,344 | 63.1 |
| Total Revenue | 221,220,083 | 5.9 |

**Expenditures**

| | $ | % change |
|---|---|---|
| Departmental | 143,515,512 | 3.6 |
| Non-Departmental | 58,524,088 | 5.3 |
| Special Appropriations (CIP) | 11,183,500 | 60.2 |
| Total Non-Appropriated Exp. | 7,996,982 | 3.7 |
| Total Expenditures | 221,220,083 | 5.9 |

**PERSONNEL**

As a service provider, our budget is primarily dedicated to personnel expenses. Of this year's $202M Operating Budget, approximately three quarters is dedicated to Personnel and Benefit expenses. Personnel costs increase by 4.6% to $112.7M this year.

Over the last few years the number of FTE's outside of the School Department have been continually reduced (-33 FTE's over the past five years). This budget continues that trend with a slight reduction and better rationalization of positions within Town departments.

Through the use of GIS technology, and an adjustment in our street sweeping policies, the DPW was able to reduce a position in that program.

Within the Forestry division, a significant change has been made, in large measure because of changing State standards regulating contractual services. For years, our Tree Warden has worn many hats and been spread rather thin at times. This, in a town that is largely defined by its verdant character - even in an urban environment. The Town has been reliant on contractual services for some of its forestry needs. With the changes in State rules, however, it has become both financially and operationally advantageous to bring a portion of this capacity in-house. While reducing a gardener/laborer position, the Town will create and fund a new "Forestry Craftsman" position. This position will support our Tree Warden and provide a much needed increase in the number of tree-pruning hours.

Another department that sees changes is Planning and Community Development. When our new Town Administrator began working for Brookline, he noted his intention to review the roles, structures and operations of each department in an analytical fashion over time. Changes (declines) in CDBG funding that significantly impact Planning acted as a catalyst to examine this department first. With the help of an analysis by the Collins Center at the University of Massachusetts, changes have been initiated in this portion of the budget.

A reduction in CDGB funding resulted in the elimination of an administrative/financial position, though the Town has picked up funding for a previously CDGB-funded position within the Council on Aging (COA).

Also, the position of Commercial Areas Coordinator will be replaced with a Planner position. This aligns with the goal for greater flexibility generally, and supports EDAB's 5-year development plan to enhance and strengthen the commercial areas that are integrated into the fabric of our town.

Within the Preservation division, increased capacity was added to an existing Preservation Planner position providing needed staff support. We have heard for some time of the increased work load related to historic preservation and our LHD's.

The School Department, of course, must deal with a much different dynamic and set of demands. School enrollment has surged at an unabated rate for the past eight years. Enrollment has increased by ~1000 students over that period, requiring an additional 34 classes. And, increases continue. We cover this in greater detail later in this report.

In the end, good service is the result of good people, and good employees are the result of good employers (us). Unlike many other towns, Brookline has been (and continues to be) able to avoid painful lay-offs. Much of that "luck" has been made by everyone honestly confronting the fiscal realities and working toward meaningful solutions.

## GROUP HEALTH & BENEFITS

Employee Benefits of $45.6M will account for ~ 23% of this year's Operating Budget and include such things as Pension, Workers' Compensation, Unemployment, Life Insurance and Health Insurance.

- **Group Health**

  Group Health benefits increase by 8% to $23.4M, accounting for just under 12% of the Operating Budget. These benefits are provided to both active and retired employees. Currently, there are 2931 enrolled employees (1,372 Town / 1,549 School). 48% of the enrollees are active employees, and 52% retired.

  After years of sky rocketing and unsustainable healthcare premium increases, the Town and its employees opted into the GIC in 2010. This change was absolutely essential to the financial stability of Brookline. This year the GIC premium increase (in aggregate) is just 2% - partly driven by changes in plan selections. However, the premium split between the Town and its employees was re-negotiated as part of adopting the GIC. Historically, the Town paid for 75% of the premium costs; the Town now funds 83% of the premium costs. Even with this concession, the Town benefits from the change.

  Our employees also benefit. Not just from greater job stability, but from significant individual savings as well. By enrolling in the GIC, the average premium is now approximately $1,100 less than in FY'09 for an employee enrolled in a PPO individual plan, and approximately $2,200 less for those employees enrolled in a PPO family plan.

Adoption of the GIC has been a very productive collaboration, providing a marked favorable impact on our employees' combined compensation package and providing a needed measure of relief in the Town's finances.

- **Retiree Health**

Just as we provide healthcare benefits for our active employees, we have also made healthcare benefit promises to our retired employees. These fall under the category of Other Post Retirement Benefits (OPEBs). The calculated unfunded liability for our retiree health obligation, as of June 30, 2010 is $208M. The current balance in our Post-Retirement Benefits Trust Fund is $13.5M.

Brookline is one of only a few communities to begin funding a post-retirement benefits trust. We make regular appropriations toward this fund through a structured OPEB funding plan. The plan calls for adding $250K incrementally each year for the next 22 years. With continued and disciplined adherence to the payment schedule, the assessment of special revenue funds, and the possibility of infusions of one-time monies, the funding timeline may even shorten.

Much of our unfunded liability is the result of generous commitments made many years ago when times were better and healthcare costs were almost negligible. Times and circumstances have changed. We must honor the promises made, and work to ensure that we do not burden our successor generations with an unsustainable liability.

The recommended FY'13 appropriation is for $1.8M from the General Fund, in addition to $258K in Grants/Special Funds assessments, $211K in Free Cash and $300K from the GIC for the Medicare Part D subsidy. This brings the proposed total appropriation for FY'13 to $2.6M.

By adhering to our funding schedule, we believe we should reach a level at which the Town will be fully funding its Annual Required Contribution (ARC) in ten years.

- **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 (nor pay for) Social Security benefits. Currently, there are just over 3,500 employees (active, inactive and retired) enrolled in the Town Pension System. Most of the Pension is funded by employee contributions (9% on the first $30K of salary and 2% on everything over that). However, the Town must also allocate funds for their retirements. That annual amount is determined by a State-authorized funding schedule and Brookline has a payment schedule designed to reach full funding by 2028. The State permits Retirement Boards to extend that payment schedule to 2040. However, as with a mortgage, extending time increases the ultimate cost even if it reduces the annual payments. The approximate value of the pension as of December 31, 2010 was $204M – the fund lost approximately 1.7% during CY'11. The pension system is approximately 61% funded with an unfunded liability of just over $137M.

During calendar year 2008, the S&P index declined by 47%, the State fund (PRIT) fell by 29%, and Brookline's pension fund lost approximately 28% of its value. That strong relative performance was cold solace, however, as we ultimately must cover our loses.

For calendar year 2009 we enjoyed a better than 27% return. Coupled with additional funds provided from our newly adopted local option excise taxes (meals/hotel) we made up some ground. However, our required contribution continues to increase. For FY'13 the increase is $830K to $15.3M

The Pension Board is considering a reduction in the assumed rate of return, for actuarial purposes, from 8.15% to 8%.The new actuarial figures should be completed later this year. At that point we will have a clearer picture of the Pension Fund.

**CAPITAL IMPROVEMENT PROGRAM (CIP)**

Capital investments in a community's infrastructure are essential in supporting its town services. Our Capital Improvement Program (CIP) is a way for Brookline to satisfy fundamental capital needs, while providing budgetary stability and predictability. By having a consistent approach to capital funding, we are able to schedule projects coherently and manage the associated debt service.

The Town's proposed FY'13 – FY'18 CIP anticipates an average annual investment of more than $25M. This year we are slated to authorize $11.2M of "pay-as-you-go" projects from the General Fund toward our CIP. This $11.2M is funded by on-going General Fund revenue ($3.3M), Free Cash ($3.9M), the sale of the Town-owned Fisher Hill property ($3.25M), re-appropriations ($560K), and parking meter receipts ($100K). In addition to the $11.2M, there is another $3.5M of bond-funded projects, the debt service for which will become part of the Debt Service budget once borrowed. Lastly, other funding for the CIP comes from grants (including CDBG, State/Federal grants) and Enterprise Funds' budgets.

This year we approach our CIP funding with the help of revised guidelines. An amount equal to 5.5% of the prior year's net revenue added to an inflation-adjusted $750K from the '08 over-ride allocation provides an equivalent 6% base. Added to this is Free Cash to bring the minimum CIP funding level to 7.5%. In past years we have funded at this same base level. With further funding from other sources this year, total revenue directed toward the CIP is $19.5M, bringing that 7.5% figure closer to 10% of the prior year's Net Revenue.

Funding in this year's CIP is aimed in large measure at contending with our growing school population. What were once Kindergarten classes of 400 children, are now classes of 600+ and these larger classes, likely to increase, will progress through the system. The FY'13 CIP proposes funding for a $50K space analysis study of BHS in anticipation of the coming wave of new students, $500K for work on the exterior surface of the Old Lincoln School, and $1.75M for the creation of additional classroom spaces (Classroom Capacity). Separately, $1.3M is allocated for work on the Unified Arts Building.

The proposed CIP also continues our commitment to street and sidewalk rehabilitation, energy conservation, parks and playgrounds, and technology, among other things.

The proceeds from the Town's sale of its Fisher Hill property for a mixed-housing development will be used to fund a field and playground on the former Fisher Hill Reservoir site. This is a major addition to the Town's accessible open space.

$500K is allocated for the replacement of the Putterham Golf Course maintenance building. This is an old building now beyond repair. In reviewing this project, and in consultation with the Recreation Department (responsible for the Golf Enterprise Fund) and our Town Administrator, an arrangement was made whereby the Golf Enterprise Fund will pay back the $500K over 20 years as a loan.

An item that proved contentious among Advisory Committee members, and may among some members of Town Meeting, is the proposed allocation of $75K for Bicycle Access Improvements. The funding is meant for the marking of specific bike lanes on Washington St., Dudley St. and Park St., the latter two being "contra-flow" bike lanes. There were some reservations expressed regarding the contraflow lanes on Park and Dudley streets. The concern was that Town Meeting is being asked to fund these projects without a clear understanding of the methodology for determining the suitability of this approach or an availability of rubrics or guidelines defining the public process. Most members felt comfortable that the Transportation Board had taken into account the competing concerns. They noted support of a different article on the warrant that specifically asks the Transportation Board to define, with broad input from a cross-section of town residents, a set of publically available guidelines. The majority of members supported fully funding this line-item.

Another controversial item was $320K for "Life Safety Improvements" to Firehouse One. These funds are for the installation of a sprinkler system. Our firehouses serve as dormitories where Firefighters live during their 24-hr shifts. In the case of Firehouse One, exclusively, the dormitory is two levels above the garage. State code does not require a sprinkler system in this case, but would if it were a new structure.

It was pointed out that there is a Watch Commander awake and on duty 24 hours a day in the firehouse. Many members felt it was completely unnecessary to install a sprinkler system in the firehouse and suggested it would be wiser to install smoke detectors, fire extinguishers and a fire escape ladder in the building prior to any consideration of a sprinkler system.

After hearing from the Fire Chief, Building Commissioner and Director of Public Buildings, the majority of members were convinced, even if the likelihood of an uncontrollable fire in the station is unlikely, that the sprinkler system is good insurance that will help keep people safe for many years to come and, therefore, supported funding this item.

Other items in the CIP include street-tree replacement, parking meter enhancements, and much needed work at the Old Burial Ground to name a few. A detailed description of all the FY'13 CIP items is provided in these Combined Reports.

**DEBT AND DEBT FINANCING**

As has been noted, the CIP is largely financed through debt (bonding). Projected outstanding debt for FY'13 is approximately $78M $3M of which is State reimbursable via SBA and $6.4M is attributable to Debt Exclusion projects. Debt service (annual payments on that debt) is approximately $12.6M for all funds. Of the $12.4M in debt service, $2.5M is financed through the Enterprise Funds and $600K through the State SBA. A significant change this year involves the Town's bonding of approximately $18M at a rate of just under 2%,

including the refinancing of bonds issued in FY'02 and FY'03. The savings from that refinancing of the FY'02 and '03 bonds is$585K.

State law limits a town's level of debt to 5% of its Equalized Valuation (EVU). At ~ 0.5%, Brookline's level is nowhere near that limit, and our CIP policy would not allow for such outstanding debt levels. Our practice of long-term financial planning, and use of relatively short maturation debt periods (more than 80% amortized over 10 years), helps to 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'13-FY'18 CIP, and the other breaks out the CIP allocation by category. These figures do not account for possible (and not easily predictable) changes in SBA reimbursements.

| **CIP (6 Yr) Funding by Source (%)** | | | **CIP (6 Yr) Allocation by Category (%)** | |
|---|---|---|---|---|
| General Fund Bond | 44.0 | | Facility Renovation/Repair | 65.0 |
| Free Cash | 12.2 | | Infrastructure | 17.4 |
| State/Federal Grants | 25.3 | | Park/Open Space/Playgrounds | 13.8 |
| Utility Bond/Budget | 2.0 | | Misc. | 1.6 |
| Property Tax | 11.7 | | Vehicles | 2.2 |
| Other | 1.2 | | **Total** | **100.0** |
| CDBG | 1.5 | | | |
| Sale of Town-owned Land Fund | 2.1 | | | |
| **Total** | **100.0** | | | |

**SCHOOL DEPARTMENT**

The School Department's stated key goals are: keeping teachers in the classroom, focusing on teaching and learning, and improving Special Education and student services.

Enrollment pressures and the associated financial pressures make this a difficult task. The School Department projects the need for an additional 21 elementary school classrooms by FY'16, assuming continued incoming Kindergarten classes of 600 students. Projections are difficult, but our current enrollment is already straining us.

The current incoming Kindergarten class, projected to be 600 and requiring an additional 4 FTE classroom teachers, is likely to exceed that projection. In all likelihood, we will have to consider budget adjustments at the fall Town Meeting to address this.

Many teachers have retired in the past few years, and were replaced with younger teachers. While this may temporarily reduce the salary base, the financial effects of Steps & Lanes (years of experience and degrees/educational credits) will be more pronounced within this group of newer teachers.

In addition to keeping teachers in the classroom, the School Department continues program improvements. Specifically, a Content Reading Initiative at BHS, a Literacy Collaborative in the elementary schools, a mathematics teacher for Advanced Geometry, ongoing support for Elementary World Language, and the Calculus Project.

The School Department also continues to support and enhance Special Education (SPED) programs. This year the budget allows for an increase of 6.8 FTE's across the system. The Department endeavors to develop strong SPED programs within Brookline that support families and obviate the need for very costly out-of-district placements. This approach seeks to both increase quality of services (in house) while reducing overall costs. The wildcard, of course, is the number of students needing or opting for out-of-district placements.

The School Department has done a remarkable job of maintaining and strengthening education in Brookline, especially in light of financial challenges.

This year the Department will benefit from an increase in Chapter 70 Aid of $2M. But, that is a benefit that cuts both ways as it is predicated on increased student enrollments.

As the Town has had to look at its budget as "transitional" over several years (as opposed to merely "transactional" from year to year); so too will the School Department, and the community, have to grapple with the coming transitional phase of funding staff and space for Brookline's children.

A detailed analysis of the School Department's budget follows later in this report.

**HITTING OUR SHORES**

Some bemoan what they perceive to be an over focus on a youth-culture in our society. It's seen in programming, merchandising, marketing, advertising and a nation obsessed with being forever young.

From a municipal standpoint, though, what is important is not a youth-culture, but a community-culture that supports youth; supports maturity, responsibility, civic engagement and a deep, broad and strong education.

Brookline has always been one of those communities – we're recognized and celebrated for it. Support of a strong educational system is not inexpensive, however. And, as the face of Brookline gets younger, those costs will significantly increase.

In putting together our town's budget we spend a lot of time and effort debating many things – green dog fees, parking meters, traffic calming, street lights and sidewalks. All are important, but none are make-or-break.

Healthcare costs, pensions and post-retirement obligations, surging school enrollment -- these are the potential game changers. These are the financial obligations that drive the dynamic of municipal finances.

We have creatively and collaboratively addressed healthcare and OPEBs, at a cost to be sure, but we have done so in a responsible and sustainable manner. We must now confront our school enrollment challenge with the same creative and proactive approach.

We may well be required to abandon old notions and approaches and embrace new ideas. We most certainly will need to consider the financial impacts of various plans for contending with the increased enrollments.

The strength of Brookline's culture has largely been defined by the value we place on our youth and education. That history and commitment should bode well in Brookline's task of meeting this new challenge. We've proven we're up to it.

**RECOMMENDATION**
The Advisory Committee unanimously recommends FAVORABLE ACTION on the FY13 budget as presented below.

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**Advisory Committee Report to Town Meeting on the**
**Public Schools of Brookline FY2013 Budget**

BACKGROUND:
This report and accompanying Exhibit discuss the major fiscal issues facing the Public Schools of Brookline ("PSB") in 2013 and beyond. Information was obtained from The Public Schools of Brookline, Superintendent's Preliminary Budget, FY2013, as amended, as well as other sources provided by the PSB. It would also be useful to read the Superintendent's Message included in that document.

The operating and capital budgets of the PSB reflect the allocation of available resources pursuant to a strategic plan that identifies four strategic areas of focus:

- academic Excellence through Content, Pedagogy and Relationships
- educational Equity
- thriving in a Complex Global Society
- continuous Improvement using Data

Improvement is managed through (i) self-assessment, which is student focused and measured by Annual Yearly Progress and (ii) Program Review, which is curriculum focused.

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
    - the memorandum is applied with considerable judgment, in a manner that has provided more funds to the PSB than would a literal interpretation
- state reimbursement of certain special education expenditures ("Circuit Breaker")
- tuition and other fees

- federal stimuli (2011 only)
- other sources that cannot be considered long-lived
    - largely attributable to timing differences in prior years' special education disbursements and the later reimbursement by the state (referred to herein as "reserves")

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, including:

- personnel benefits
- school building expenses
- debt service

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 spending by the Town referred to in the preceding paragraph.

Management of PSB spending continues to be a major challenge in 2013 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, and likely, near future, environment. To paraphrase the Superintendent's budget message - we are forced to adapt and change in order to provide the best educational program with the resources available.

DISCUSSION:

**Near Future**

The most important takeaway is that time is quickly running out before the Town will need to face major decisions on the philosophy and structure for providing the financing of the PSB's operating and capital requirements. Although the Advisory Committee believes that the spending choices reflected in the 2013 PSB budget are reasoned judgments, and it voted unanimously to approve the Town appropriation, it is aware that this budget will require further amendment in a fall Town Meeting because enrollment numbers have grown well beyond the estimates reflected in the assumptions of this budget.

Elephant in the room is an expression that implies something large and obvious, but ignored. The Town has had them in unfunded pension and health care liabilities, which are now being addressed. The third is sourcing the PSB capital and operating funds to satisfy requirements, needs, and wants, and discretionary choices. The discussion must move from the approval of individual years' budgets to a broader and longer view.

The major issues to consider include:

- enrollment growth
    - 6,604 students in the 2011/2012 school year, plus about 300 children in pre-K
        - 602 children in K
        - 1,777 at the high school

    - 6,746 students in the 2013 budget, plus about 300 children in pre-K
        - 600 children in K, but the current expectation is between 650 and 700
        - 1,748 at the high school, but the decrease will not continue as larger elementary populations graduate
    - 5 years out, the student population is projected to exceed 7,500 students, with 2,200 at the high school
- special education – a large and amorphous program that undergoes continuing review to improve effectiveness, while moving to less expensive delivery means through :
    - reduction of out-of-district placements
        - including potential private/public partnerships
    - reduction of district-wide programs
        - replaced by intensive learning centers, allowing greater neighborhood elementary school attendance
    - enhancement of neighborhood school offerings
- inflationary erosion of funding sources
    - base, and steps and lanes, increases in teacher salaries
        - from less than 1% in the last two years to 2% in 2013, and between 2 and 3% in 2014
        - total personnel costs are 84% of the PSB general fund; teachers are 52% of FTEs
    - level funding of grants

The means to meet the growing expenditures can come from:

- reallocation, rationalization and renegotiation of existing resources, which will involve more already painful choices, and challenges to sacred cows
        - "reserves" are a vanishing resource, amounting to approximately $500-600k entering 2013, with a planned utilization $350k, *before the anticipated amendment of the budget in the fall*
    - the tutorial program at the high school (involves 15 FTEs and $1 million of cost)
    - increasing the number of teaching days, and the length of the teaching day
- enrollment management
    - focus is being given to the Town's policy regarding
        - children of town employees – currently 149 students who pay a materials fees of approximately $2,500 each
        - the METCO program - 300 students, partially funded by a $1.3 million grant
- sharing of total Town resources through the Town/School Partnership, and the attendant conflict with other public services
    - the partnership is largely designed to allocate total Town resources equally between the school system and other public services
    - the PSB now consume 56% of the Town's total operating budget
    - reserve fund transfers
- override
    - there were overrides of $1.1 and $4 million in 1999 and 2008, respectively

**2013 Operating Budget** (refer to the accompanying Exhibits at the end of this report on the School budget)

The 2013 operating budget calls for a combined spending of some $127.2 million on behalf of the PSB, $93.2 million by the PSB, and $34.0 million by the Town. The $93.2 million of PSB spending comes from its general fund ($81.7 million), grants ($5.3 million), and revolving funds ($6.2 million). The capital budget identified with PSB projects is $100 million.

PSB general fund spending, not including unallocated categories, is associated with schools and programs as follows:

- $34.2 million (42%) for the elementary schools
- $2.4 million (3%) for kindergarten
- $16.1 million (20%) for the high school
- $22.1 million (27%) is associated with special education (which amount excludes a $1.8 million federal grant).

Personnel spending represents $68.9 million (84%) of the PSB general fund

- across all PSB funds, in 2013 total staff increases by 14 FTEs to 1,153 FTEs
    - teaching positions increase by 14 FTEs and classroom aides and support decline by 3 FTEs.
    - within the PSB general fund
        - special education resources increase by 14 FTEs, reflecting a change to in-house resources replacing contractor services for certain home-based services (no significant spending change)
        - enrollment growth requires 7.1 FTEs, again, before the coming amendment because of enrollment estimate changes
- in 2012, total staff across all PSB funds grew by 27 FTEs to 1,139 FTEs from 2011's 1,112 FTEs

PSB general fund spending increases by $3.2 million (4.1%) in 2013 to $81.7 million from 2012's $78.5 million. The growth in Town appropriation component of the PSB general fund is $3.3 million (4.3%), and $350 thousand of reserves are expected to be used, subject to possible amendment for the enrollment changes.

The $3.2 million of general fund revenue growth is largely consumed by net increases in compensation ($2.1 million), and enrollment ($411 thousand) and program expansion ($462 thousand) representing the remainder. Reductions of $215 thousand contribute to the ability to achieve expenditure growth.

**2012 Operating Budget**

Forecasted spending from all the PSB funding sources ($89.9) is expected to be on budget.

**Grant Funds**

The two largest components of the grant fund are special education ($1.8 million) and METCO ($1.2 million). While the sustainability of grants is always a concern, as said earlier, the immediate financial impact is from the inflationary erosion of level funding.

**Revolving Funds**

Food services ($2.1 million), Early Childhood ($2.1 million) and Adult Education ($1.4 million) and the Athletic Fund ($360 thousand) represent $5.6 million of $5.9 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 significant financial concerns from the operation of the services delivered within these funds, although there are continuing challenges to maintain the revenue stream.

**Special Education**

A 2010/2011 census showed that 1,209 students (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 were 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%).

TABLES:

Table A | Exhibit

## Public Schools of Brookline

Funding Sources
($ in $000s)

| | 2011 Actual $ | 2012 Forecast $ | 2013 Budget $ | 2013 Change $ | 2013 Change % |
|---|---|---|---|---|---|
| PSB: | | | | | |
| General Fund: | | | | | |
| Appropriation for PSB (Note) | 72,044 | 75,387 | 78,649 | 3,262 | 4.3% |
| Tuition & fees, principally children of town employees | 416 | 497 | 554 | 57 | 11.5% |
| Special Education Circuit Breaker | 1,182 | 1,828 | 1,903 | 75 | 4.1% |
| Federal stimuli | 1,705 | | | | |
| Revolving fund reimbursement | | | 201 | 201 | |
| Reserves | 175 | 750 | 350 | (400) | |
| Total PSB General Fund funding sources | 75,522 | 78,462 | 81,657 | 3,195 | 4.1% |
| Grant Funds | 5,537 | 5,440 | 5,299 | (141) | -2.6% |
| Revolving Funds | 5,574 | 5,980 | 6,240 | 260 | 4.3% |
| Total PSB funding sources | 86,633 | 89,882 | 93,196 | 3,314 | 3.7% |
| Town appropriation for services benefiting PSB | 32,063 | 31,611 | 34,000 | | |
| Total funding sources benefiting PSB | 118,696 | 121,493 | 127,196 | | |
| General Fund appropriation subject to approval by Town Meeting | | | 112,649 | 89% | |
| Total Town General Fund | | | 202,039 | 56% | |

Note: Includes $1.1 and $4.0 million from overrides in 1995 and 2008.

Grants and Revolving Funds
($ in $000s)

| | 2011 $ | 2012 $ | 2013 $ |
|---|---|---|---|
| Grants - recurring | | | |
| Special Ed IDEA | 1,795 | 1,802 | 1,825 |
| METCO | 1,244 | 1,241 | 1,252 |
| Over $1 million | 3,039 | 3,043 | 3,077 |
| Between $100-500 thousand | - | - | - |
| Total recurring grants | 3,039 | 3,043 | 3,077 |
| Grants - nonrecurring | | | |
| Federal stimuli | - | | |
| Included in General Fund | (1,705) | | |
| Net nonrecurring | (1,705) | | |
| Total itemized grants | 1,334 | 3,043 | 3,077 |
| Total grants | 5,537 | 5,440 | 5,299 |
| Revolving Funds | | | |
| Food Services | 1,999 | 2,047 | 2,123 |
| Early Childhood | 1,613 | 1,981 | 2,073 |
| Adult Ed | 1,283 | 1,299 | 1,387 |
| Athletics | 352 | 358 | 360 |
| Total itemized funds | 5,247 | 5,685 | 5,943 |
| Total revolving funds | 5,574 | 5,980 | 6,240 |
| Total grants and revolving funds | 11,111 | 11,420 | 11,539 |

Table B

Exhibit

## Public Schools of Brookline

($ in $000s)

General Fund Spending by Resource

| | 2011 | 2012 | 2013 | | Change | |
|---|---|---|---|---|---|---|
| | $ | $ | $ | % of Total | $ | % |
| Personnel | 63,267 | 65,302 | 68,884 | 84% | 3,582 | 5.5% |
| Services | 9,999 | 10,541 | 9,391 | 12% | (1,150) | -10.9% |
| Supplies | 1,489 | 1,709 | 1,744 | 2% | 35 | 2.0% |
| Other | 369 | 468 | 1,179 | 1% | 711 | 151.9% |
| Equipment | 398 | 442 | 459 | 1% | 17 | 3.8% |
| Total spending | 75,522 | 78,462 | 81,657 | 100% | 3,195 | 4.1% |

General Fund Spending by School/Program

| | 2012 | | 2013 | |
|---|---|---|---|---|
| | $ | % | $ | % |
| Elementary | 32,820 | 42% | 34,211 | 42% |
| SPED | 21,279 | 27% | 22,088 | 27% |
| High school | 15,577 | 20% | 16,107 | 20% |
| Kindergarten | 2,163 | 3% | 2,444 | 3% |
| Unallocated | 6,420 | 8% | 6,807 | 8% |
| Total | 78,259 | 100% | 81,657 | 100% |

Staffing Resources in FTEs

| | 2013 by Funding Source | | | | | 2012 | |
|---|---|---|---|---|---|---|---|
| | General | Grants | Revolving | Total | % of Total | Total | % of Total |
| Teachers | 559.7 | 22.8 | 15.8 | 598.3 | 52% | 584.3 | 51% |
| Aides/technicians | 193.2 | 36.8 | 17.8 | 247.8 | 21% | 256.2 | 22% |
| Support | 138.4 | 6.4 | 5.4 | 150.2 | 13% | 144.6 | 13% |
| Principals/administration | 23.0 | 0.3 | 0.2 | 23.5 | 2% | 23.1 | 2% |
| Total education | 914.4 | 66.3 | 39.1 | 1,019.7 | 88% | 1,008.3 | 87% |
| Food service/custodial | 38.9 | | 28.1 | 67.0 | 6% | 66.5 | 6% |
| Clerical | 36.3 | 4.0 | 8.0 | 48.3 | 4% | 47.6 | 4% |
| Central admin | 11.7 | 2.4 | 3.6 | 17.7 | 2% | 16.7 | 1% |
| Total in general | 1,001.3 | 72.7 | 78.9 | 1,152.8 | 100% | 1,139.1 | 99% |
| | 87% | 6% | 7% | 100% | | | |
| 2012 | 988.9 | 73.4 | 76.9 | 1,139.1 | | | |
| | 87% | 6% | 7% | 100% | | | |

Table C | Exhibit

## Public Schools of Brookline

2013 General Fund - Revenue and Expenditure Growth

($s in 000s)

| | FTEs | $ |
|---|---|---|
| Revenues: | | |
| 2012 General Fund | | 78,462 |
| Changes in funding sources: | | |
| Appropriation | | 3,262 |
| Revolving fund reimbursement | | 201 |
| Circuit Breaker | | 75 |
| Materials fee increase | | 57 |
| Reserves | | (400) |
| Net change | | 3,195 |
| 2013 General Fund | | 81,657 |
| | | |
| Expenditures: | | |
| 2012 General Fund spending | | 78,462 |
| Changes in spending: | | |
| Increases: | | |
| Human resources | | |
| Base | | 1,302 |
| Steps and lanes | | 1,100 |
| Retirements and turnover | | (350) |
| Special Education | | |
| Increases, including Landmark Partnership | 13.5 | 1,553 |
| Reductions | | (1,355) |
| Growth | | |
| Enrollment growth | 7.1 | 411 |
| Program growth | 2.5 | 462 |
| Other | | 100 |
| Reductions | (12.0) | (215) |
| General contingency | | 187 |
| Net change in spending | 11.1 | 3,195 |
| 2013 General Fund spending | | 81,657 |

Table D — Exhibit

**Public Schools of Brookline**
2013 Details of Program Growth and Spending Reductions
($s in 000s)

| | Total | | Central Support | | Elementary | | BHS | |
|---|---|---|---|---|---|---|---|---|
| | FTEs | $ | FTEs | $ | FTEs | $ | FTEs | $ |
| Growth | | | | | | | | |
| Program related | 2.5 | 462 | | | | | | |
| Technology | | | | | | | | |
| General | | | | 100 | | | | |
| Wireless | | | | | | 59 | | |
| African American Scholars | | | | | | | 1.5 | 112 |
| 21st Century Fund gap | | | | | | | | 15 |
| Virtual high school (advanced geometry) | | | | | | | 0.2 | 12 |
| Elementary world language | | | | | 0.8 | 46 | | |
| Teaching and learning materials | | | | 43 | | | | |
| Substitute teacher costs | | | | 50 | | | | |
| Calculus project | | | | | | | | 25 |
| Total programming | | | | 193 | 0.8 | 105 | 1.7 | 163 |
| Custodial and transportation services | | | | 100 | | | | |
| Total growth | | | - | 293 | 0.8 | 105 | 1.7 | 163 |
| Reductions | 12.0 | 215 | | | | | | |
| Interns | | | | | 10.0 | 100 | | |
| Math specialist | | | | | 1.0 | 58 | | |
| Instructional staff | | | | | | | 1.0 | 58 |
| Total reductions | | | - | - | 11.0 | 158 | 1.0 | 58 |

RECOMMENDATION:
The Advisory Committee's unanimous **Favorable Action** omnibus vote on the Town's combined 2013 budget includes the appropriation of $78,649,602 from the Town's general fund for the PSB general fund. However, this budget may require further amendment in a fall Town Meeting if enrollment numbers reflected therein have grown well beyond estimates.

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**Advisory Committee Report on the FY2013**
**Capital Improvement Program (CIP)**
**Recommendations and Project Descriptions**

**34. TECHNOLOGY APPLICATIONS**
**Requested/Recommended - $250,000 (Property Tax/Free Cash)**

This annual appropriation funds the projects included 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). The appropriation also permits additional projects that meet the short-term objectives set by the CIO and appropriate committees who provide the guidance for the Town's approach to technology management. Primary focus areas for IT investments include Infrastructure Lifecycle Replacement, Enterprise Applications/Better Government initiatives, School Technology, and Public Safety enhancements. Special consideration is given to projects that reduce operating expenses and /or create efficiencies.

The FY 13 request includes funds in the range of $15,000-$25,000 to acquire the technology necessary to enable electronic voting in Town Meeting. Operating costs for e-voting are currently estimated at $2000/year. Other projects to which FY 13 funds could be directed include Munis payroll implementation, work order system integration, Fire Department records management, and an e-mail system upgrade.

**35. COMMERCIAL AREAS IMPROVEMENTS**
**Requested/Recommended - $50,000 (Property Tax/Free Cash)**

Commercial Areas Improvements appropriations are intended to fund projects detailed in the Economic Development Division's Strategic Plan that serves as the framework for the selection and management of such improvements and is updated periodically by the Economic Development Advisory Board. Funds may also be directed to those projects that arise from time to time that are short-term in nature and need urgent attention to protect the Town's high-functioning commercial areas. Healthy commercial areas affect the quality of life and support our tax base. Public investment in the appearance of streets and other civic spaces as well as in the enhancement of pedestrian amenities makes the Town's commercial areas more enjoyable ones in which to live, shop, dine, and work.

The FY 13 request proposes funds for projects in three commercial areas: Washington Square (street furniture, LED lighting – approximately $24,000); Brookline Village (benches and bike racks on Station Street – approximately $5300); and St Mary's/Lower Beacon Street (banners, benches, and long-term plantings – approximately $11,700). The remaining dollars (approximately $8500) would be allocated to the design of and construction documents for signs for cultural institutions and parking lots.

**36. FIRE APPARATUS REHAB – Engine 3**
**Requested/Recommended - $50,000 (Property Tax/Free Cash)**

The Town's policy is to replace front line engines every 17 years and front line ladder trucks every 20 years. This replacement schedule also recommends appropriating funds to rehab engines every ten years and rehab ladder trucks every twelve years.

Engine #3, currently housed at Station 7 (Washington Square), was purchased in 2000 and is need of rehab. Given its age, current plans call for it to be used as a reserve engine, replacing the current reserve Engine 1 which would then be retired. The rehab costs for a reserve engine ($50,000) are lower than those for front line engines

($160,000). Engine 3 is scheduled to be replaced in FY 14 at an estimated cost of $465,000.

**37. FIRE STATION RENOVATIONS**
**Requested/Recommended – $320,000 (Property Tax/Free Cash)**

A study of the condition of the fire stations and what is needed to maintain the integrity of the floors and building, particularly in regard to newer, larger fire equipment has been completed. 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 estimated total for all necessary work is $3.285 million. The scope of the overall 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 was to fund all required structural work in the first year (beginning with $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).

Work performed last year at Station 7 (Washington Square) addressed the weight bearing load capacity issue in that facility. Work proposed for FY 13 will take place at Station 1(Washington and High Streets) and will be used to install a sprinkler system in the building.

**38. BICYCLE ACCESS IMPROVEMENTS**
**Requested/Recommended – $75,000 (Property Tax/Free Cash)**

In the Bicycle Master Plan, the following projects have been identified for implementation:

- Install bicycle contraflow lanes on Dudley Street from Dudley Way to Walnut Street ($8,856.98)

- Install bicycle contraflow lanes on Park Street from Marion Street to Beacon Street. ($2,518.78)

- Install bike lanes or priority bike lanes (when the roadway is too narrow) on Washington Street from Cypress Street to the town line at Corey Road. ($64,416.88)

Installation includes lines and symbol pavement markings in thermoplastic paint and surface applied tape. The cost of required signage is not included in the request.

Planned maintenance is based on repainting symbols once every two years and reflective lines two times every year. Projected costs based on DPW's current contract for pavement markings are:

- Dudley Street - $938.27
- Park Street - $240.57
- Washington Street - $2,371.64

**39. HARVARD ST / GREEN ST PEDESTRIAN CROSSING STUDY**
**Requested/Recommended - $25,000 (Property Tax/Free Cash)**

At the November 15, 2011 Special Town meeting, Article 13 called for a study of the feasibility, costs and benefits of installing a pedestrian signal at the intersection of Harvard Street and Green Street. The analysis is to include the impact of traffic signals in proximity to this location. The cost of a consultant's study is estimated at $25,000.

**40. STREET REHABILITATION – TOWN**
**Requested/Recommended - $1,470,000 (Property Tax / Free Cash)**

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 FY13, the appropriation is recommended at $1.47 million (the original $1 million base, plus the $300,000 added in FY09 increased annually by 2.5%). The appropriation continues to be increased annually by 2.5%.

Streets scheduled for FY 13 include Walnut Street from High Street to Cypress Street, Dean Road from the bridge to Eliot Street, and Lancaster Terrace from Beacon Street to Summit Avenue.

**STREET REHABILITATION – STATE**
**Requested/Recommended - $944,631 (State / Federal Grant)**

The State provides monies under its Chapter 90 program for the maintenance of certain streets. About 1/3 of Brookline's streets are eligible for 100% State reimbursement. This money supplements the funding appropriated from Town funds for street rehabilitation.

Streets scheduled for FY 13 include Clark Road and a portion of Fisher Avenue.

**41. SIDEWALK REPAIR**
**Requested/Recommended - $276,000 (Property Tax / Free Cash)**

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 FY13, the appropriation is recommended at $276,000 (the original $200,000 base, plus the $50,000 added in FY09 increased annually by 2.5%). It then continues to be increased annually by 2.5%.

Sidewalks scheduled for repair with FY 13 funds include:

- Hammond Street - Pine St. to the entrance of Soule Playground
- St. Paul St. - Sewall Ave. to Beacon St.
- Aspinwall Ave. - Harvard St. to St. Paul St.
- Harvard St. - #250 Harvard St. to Webster St. and Andrew's Bakery to Fuller St.
- Pierce St. behind the Health Center
- Hurd Rd. - Both sides
- Clinton Rd. - # 381 to #401
- Evans Rd. – Corey Rd. to the rotary

**42. SIDEWALK REVOLVING FUND**
**Requested/Recommended - $65,000 (Property Tax/Free Cash)**

Under Article 6 of the May 28, 2002 Annual Town Meeting, a revolving fund was approved for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks. Seed money in the amount of $200,000 for this fund was appropriated. Basically, the program applies to sidewalks that are not scheduled to be done in the near future, and allows residents to have their sidewalks replaced if they pay half of the construction cost. In its nine years of existence, the program has been well received, resulting in a diminished balance in the fund of approximately $32,000. Currently, there are requests of $13,000+/-. For FY13, $65,000 is being requested, which should cover the next two or three years.

**43. PARKING LOT REHABILITATION**
**Requested/Recommended - $85,000 (Property Tax / Free Cash)**

Rehabilitation of Town-owned parking lots began in FY 12 with the lot on Webster Street ($45,000). In FY 13, the Fuller Street parking lot is scheduled for the removal of the existing pavement, regrading the sub-base, and repaving the entire lot. The other features of this facility are in good condition. The total cost is estimated at $85,000.

**44. PARKING METER SYSTEM ENHANCEMENTS**
**Requested/Recommended –$100,000 Other (Parking Meter Receipts)**

The Town recently installed 90 new multi-space parking meters throughout the commercial districts. They were not well received and were the cause of much discussion during the Summer and Fall of 2011, as well as the focus of a resolution at the November Special Town Meeting. Many improvements have been made to the system, resulting in a reduction in the number of complaints; however, there are still concerns, centered primarily around the issue of having to go back to the vehicle and place a receipt on the dashboard.

An alternative to the current “pay-and-display” structure is “pay-by-space”, where all parking spaces are numbered and a user inputs the parking space number into the machine. There is no need to go back to the vehicle to leave the receipt. Another advantage of the pay-by-space model is simplified enforcement: a parking control officer no longer is required to look into the windshield of all vehicles; rather, s/he goes to the lot and can read from a hand-held device which spaces have run out of meter time. In addition to moving to pay-by-space, DPW is in the process of developing a plan to relocate some multi-space meters from the curb to parking lots, where the multi-space meters have proven to be more acceptable. Putting more meters in the parking lots will reduce waiting time, one other complaint about the current system.

In order to setup a pay-by-space system, poles and signs are required (along with the labor to install), along with new hand-held enforcement technology. The estimate for

these changes is $100,000, although work is still required to finalize the plan and the cost.

**45. MUNICIPAL SERVICE CENTER FLOOR**
**Requested/Recommended - $300,000 (Property Tax / Free Cash)**

The Municipal Service Center (MSC) was built more than 11 years ago on land next to the Robert T. Lynch Municipal Golf Course. Due to its type of use and exposure to salt and fuels, as well as the effect of severe weather conditions, the floor at 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. In FY 12, CIP funds ($25,000) were used for short term patching to address immediate deficiencies in the flooring, but the issue of spending tax dollars to regularly address floor repairing and resealing remained.

At the 2008 Annual Town Meeting, $40,000 was appropriated to fund a consultant study of space and facility needs of both the Parks and Open Space Division and the Building Department's maintenance craftsmen. Before the study was commissioned, however, a Public Works departmental decision was made to move the offices and some of the Parks and Open Space division's equipment to the MSC during the summer of 2009 as a cost saving measure and as part of a reorganization of services. Remaining equipment was – and continues to be - stored at the Transfer Station and a facility at Larz Anderson Park. Lack of space for all of the Division's equipment at the MSC has meant "seasonal swapping." So, for example, snow removal equipment is stored at Larz Anderson in the non-snow months during which time its MSC storage space is occupied by Parks Division machinery.

In 2011, using FY 09 consultant study money, Weston and Sampson, an environmental and infrastructure engineering consulting firm, was hired to undertake a study of the space needs of the Highway/Sanitation Division and the Parks/Open Space Division as well as those of the Building Department's craftsmen. In the meantime, $300,000 in FY 13 CIP funds has been requested to undertake the reinforcing, stabilizing, and preparation of the flooring for resealing. The consultant study's, due for completion by the end of 2012, is expected to identify a plan and associated costs for the reorganization of existing space for offices and equipment storage at the MSC and Larz Anderson facility. A request for FY 14 CIP funds, currently in the $750,000 range, to implement the consultant's recommendations is anticipated. The stabilization of the floor will be required regardless of the reorganization of existing spaces.

**SINGLETREE TANK EXTERIOR REHAB**
**Requested/Recommended - $300,000 (Water and Sewer Enterprise Fund Budget)**

The Singletree Hill water storage tank provides the water distribution system with storage and operating reserves. Scheduled maintenance requires that the interior of the steel tank be reconditioned every 12 to 15 years and the exterior be painted every 8-10 years. The interior was completely renovated in 2008 while the exterior was last completed in 2003. These funds will be used undertake the necessary work on the exterior surfaces of the tank.

**46. FISHER HILL FIELD/PLAYGROUND CONSTRUCTION**
**Requested/Recommended - $3,250,000 (Other – Sale of Town-owned Land)**

The former MWRA Fisher Hill Reservoir located on the west side of Fisher Avenue was purchased in February 2011 for the purposes of constructing a 10-acre park. Plan called for an athletic field, parking, tree lined walking paths, naturalistic buffers, native woodlands, and restoration of the historic gatehouse. The site currently consists of an above-ground reservoir, the gatehouse, native and invasive vegetation, dramatic topography, and a perimeter fence. The Park and Recreation Commission appointed a Design Review Committee to work on the final design and construction documents for the park, incorporating the programmatic recommendations of the Board of Selectmen-led Master Planning Committee. Park construction is proposed to commence in FY13.

Funding for the project comes from the sale of the Town's reservoir site on Fisher Hill, which is being transformed into a mixed- income housing development.
Contemplated improvements to this facility include new installation of playground equipment for toddlers and older children, signage, tree pruning, planting, field restoration, new backstop and players' benches, trash receptacles, pathways, and lighting. The work is estimated to cost $800,000 and will be bonded.

**47. PARKS AND PLAYGROUNDS REHABILITATION & UPGRADE**
**Requested/Recommended - $285,000 (Property Tax/Free Cash)**

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**
**Requested/Recommended – $80,000 (Property Tax/Free Cash)**

Town and School grounds require on-going landscape 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**
**Requested/Recommended – $165,000 (Property Tax/Free Cash)**

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 year's hurricane and windstorms makes these CIP funds even more critical to maintaining a healthy tree inventory.

**50. OLD BURYING GROUND**
**Requested - $250,000 (Property Tax/Free Cash)**
**Recommended - $280,000 (Property Tax/Free Cash)**

When the community of Muddy River became the Township of Brookline in 1705, the town government assumed the responsibility of establishing both a church and a school, choosing representatives to the General Court, laying out roads, and creating a burial place within the town. This last task was not completed until 1717 at which time a committee of townspeople bought half an acre of land on the Sherbourne Road (now Walnut Street) from Samuel Clark, Jr. for eight pounds. In 1840, the cemetery was enlarged through the purchase of an additional three-quarters of an acre from Caleb Clark for $500. The Old Burying Ground served as the Town's cemetery for over 150 years, until the creation of the Walnut Hills Cemetery in South Brookline in 1875.

The cemetery is listed as part of the Town Green National Register District. It is the resting place of families whose names remain familiar to today's residents including Devotion, Aspinwall, Boylston, Craft, Philbrick, Corey, Craft, and Gardner. It is also the burial place of enslaved people of African descent who lived in Brookline,

including Adam, who fought at the Battle of Lexington; Boston, who was interred in the Boylston family tomb; and Hagar, born in the year the Burying Ground was established.

The cemetery has also been featured in a publication by the Massachusetts Department of Environmental Management entitled "Preservation Guidelines for Historic Burial Grounds and Cemeteries". Research completed by both landscape architects and specialists in monument conservation indicates that the Town has much work to do at this site. Included in the work program under consideration for FY 13 is repairing and stabilizing a row of 12 tombs that are in deteriorated condition. Restoration of the cast iron fence around the Cook family lot may be undertaken with a combination of cemetery trust funds and funds raised by the Friends of the Old Burying Ground.

**51. GOLF COURSE - REPLACEMENT OF MAINTENANCE BUILDING**
**Requested - $500,000 (Property Tax/Free Cash)**
**Recommended - $500,000 (Property Tax/Free Cash to be repaid from the Enterprise Fund as a loan over a 20-year period)**

The maintenance building at the Robert T. Lynch Municipal Golf Course at Putterham Meadows is in disrepair to the point of needing complete replacement. There are several safety issues of concern for personnel. In addition, the current space is not adequate to house the various pieces of equipment necessary for golf course operations. A study of the existing building and space needs for golf operations recommended that the existing building be demolished and that its 5,000 square foot replacement be located on a different site. Preliminary plans for a new building call for offices with heating capacity as well as other functions.

**52. SCHOOL FURNITURE**
**Requested/Recommended - $50,000 (Property Tax/Free Cash)**

This is a continuous program to upgrade furniture in all schools, which are subjected to significant wear and tear annually. Funds are used to buy replacements for the most outdated and worn items. CIP funds were increased from last year's $25,000 allocation to $50,000 for FY 13, reflecting the growing student enrollment. It should be noted that CIP funds are used in combination with School Department funds to support this program.

**53. TOWN/SCHOOL BUILDING - ADA RENOVATIONS**
**Requested/Recommended - $60,000 (Property Tax/Free Cash)**

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 increasing 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. In the coming year, funds will be directed towards making switches for wheelchairs lifts compliant with new ADA requirements.

**54. TOWN/SCHOOL BUILDING - ELEVATOR RENOVATIONS**
**Requested/Recommended - $250,000 (Property Tax/Free Cash)**

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. Last year a study was commissioned to assess the conditions of older elevators in public buildings. Based on the study's findings, $250,000 in FY 13 CIP funds is requested to upgrade the controls and hydraulics of the elevator at the Lawrence School. In the coming years, similar work is anticipated for the Pierce School, Lynch Center, and Unified Arts Building at the High School.

**55. TOWN/SCHOOL BUILDING - EMERGENCY GENERATOR REPLACEMENT**
**Requested/Recommended - $125,000 (Property Tax/Free Cash)**

Buildings are required by the Massachusetts Building Code to provide for emergency egress in case of a power failure. This is done by either emergency battery-powered lights or through the use of a generator. This project would fund the replacements of generators and/or installation of emergency lights or circuits as needed at Fire Station No 5 (FY 13) and the Pierce School (FY14). In the case of the former, the generator is located in the boiler room of the fire station, creating ventilation issues. In the case of the Pierce School, the generator vents into the employees' garage.

**56. TOWN/SCHOOL BUILDING - ENERGY CONSERVATION**
**Requested/Recommended - $150,000 (Property Tax/Free Cash)**

With continuing volatility and anticipated increases in utility costs, it is imperative that monies be invested to decrease energy consumption in Town buildings. Programs include, but are not limited to, lighting retrofit and controls, energy-efficient motors, insulation, and temperature equipment. CIP funds for this program are combined with energy conservation grants awarded by the gas and electric utility companies. Such funding purchases more efficient heating and cooling equipment to save money and includes acquiring jockey boilers for the Main Library, Town Hall, and Public Safety building, to be used during shoulder seasons. It is estimated that the maximum payback period for such purchases is five years.

A new focus in energy conservation is building commissioning. In the past, 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 single Commissioning Agent. This has been done more recently 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.

**57. TOWN/SCHOOL BUILDING - ENERGY MANAGEMENT SYSTEM**
**Requested/Recommended - $100,000 (Property Tax/Free Cash)**

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 for which 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. FY 12 CIP funds were used for an energy management upgrade at the New Lincoln School; FY 13 funds would support the purchase of new computers and upgrading the energy management system for the Main Library.

**58. TOWN/SCHOOL BUILDING - HAZARDOUS MATERIAL REMOVAL**
**Requested/Recommended - $60,000 (Property Tax/Free Cash)**

This annual appropriation will allow for the removal of asbestos, lead paint, mold, toxins, and any other hazardous material 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. In addition to asbestos, the presence of mold has become an issue and when identified, will be addressed with these funds.

**59. TOWN/SCHOOL BUILDING - SECURITY/LIFE SAFETY SYSTEMS**
**Requested/Recommended - $150,000 (Property Tax/Free Cash)**

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.

There have been requests to increase security for computer rooms due to thefts and vandalism. This will be reviewed. These funds would also be used to continue the on-going process of replacement and installation of new and upgraded burglar alarms, fire alarm systems, sprinkler systems, emergency lighting, and egress signs. In the coming fiscal year, security improvements are planned for the two branch libraries and will include key cards, hardware, and security cameras.

**60. INTERCOM /SAFETY SYSTEM REPLACEMENT (SCHOOLS)**
**Requested/Recommended - $250,000 (Property Tax/Free Cash)**

Existing intercom equipment in the Schools is out of date and has become more difficult and costly to maintain. In addition, not all areas of school buildings, such as hallways, gyms, and auditoriums, can receive announcements. An intercom / safety system is critical, since it is used for both daily announcements and emergencies, such as lock down situations. Therefore, it is imperative that a PA system be functional in all school areas.

Fortunately, all school buildings now have VOIP (Voice Over Internet Protocol) phones, which have the ability to be used as both telephones and intercoms. This new model is now in place and operational at the Driscoll School and was included in the renovation plans for the Heath and Runkle Schools. In order to expand this functionality to other schools, software licenses, extra wiring (data drops), and equipment are required. Added to FY 12 CIP funds ($50,000) approved for this purpose, FY 13 CIP funds ($250,000) would be used for outfitting the Pierce, New Lincoln, Lawrence, Old Lincoln, and High School buildings with VOIP-based intercom systems.

**61. HIGH SCHOOL STAGE**
**Requested - $55,000 (Property Tax/Free Cash)**
**Recommended - $25,000 (Property Tax/Free Cash)**

The main stage at the High school is original to the building. While it has been refurbished and refinished over the years, it is believed that the heavy use the stage endures makes further refurbishment no longer an option. The funding request allows for the removal of the existing wood surface and structure.

**62. HIGH SCHOOL SPACE NEEDS**
**Requested/Recommended - $50,000 (Property Tax/Free Cash)**

The enrollment growth that Brookline's Elementary Schools have been experiencing during the past seven years will begin to affect Brookline High School in FY15 (September, 2014). Beginning in FY15, the High School enrollment is expected to grow by approximately 100 students per year, from just under 1,800 students to 2,400 students by 2021 – a growth of 600 students in seven years. This enrollment level presents a capacity challenge because the High School was renovated and expanded in the 1990s to accommodate 2,100 – 2,200 students and enrollment will reach 2,200 by 2018.

The requested $50,000 in FY 13 funds would pay for a concept study of possible options to address the capacity needs of BHS. This study will be integrated into the other strategic enrollment planning initiatives of the school department (classroom capacity, Devotion School Concept Study, Demographic Update of Facilities Master Plan, etc.).

**63. OLD LINCOLN SCHOOL SURFACE STRUCTURAL REPAIRS**
**Requested/Recommended - $500,000 (Property Tax / Free Cash)**

The outside areas of the Old Lincoln School have deteriorated. Due to leaking in the asphalt, erosion, and other conditions, there is a concern that a sinkhole may develop in the area above the garages. It is anticipated that the area above the garages and the areas along the front of the building will need to be replaced. In FY11, $100,000 was appropriated for an engineering conditions analysis to help determine the scope of the problem and the costs to address it. The $500,000 in FY13 reflects the current estimate for recommended work. Bids are expected prior to the May 2012 Annual Town Meeting so adjustments to this figure can be made at that time, if necessary.

64. **PIERCE SCHOOL – ELECTRIC DISTRIBUTION UPGRADE**
**Requested/Recommended - $37,500 (Property Tax / Free Cash)**

The Pierce School has an outdated electrical system, having been equipped some years ago with Federal Pacific Electric panels. Federal went out of business in 1988 and when breakers and parts fail at Pierce, replacement parts are not available. The $37,500 in FY13 will be used to develop plans and specs for a new electrical system as well as recommendations for a replacement generator (See #55). Approximately $375,000 has been included in FY 14 in the long-term capital plan for the purchase and installation of a new electrical distribution system.

**65. CLASSROOM CAPACITY**
**Requested/Recommended – $1,750,000 ($1,190,000 - Property Tax / Free Cash) ($560,000 Re-Appropriation of Existing Funds)**

The Public Schools of Brookline have been experiencing K-8 enrollment growth for the past seven years with elementary and middle school numbers increasing by 941students (24%) between FY 05 and FY 12. The eight preK-8 schools are currently utilizing 34 more classrooms in FY12 than in FY05 to accommodate the larger student body.

In response to the growing numbers, former Town Administrator Richard Kelliher formed a School Facilities Committee, comprised of representatives from the Board of Selectmen, School Committee, Building Commission, and Advisory Committee as well as Town and School staff. The Committee's task is to explore the best options for addressing the space needs of the elementary schools. In addition to supporting plans for expansion of the Runkle and Heath Schools, the Committee continues to review other options, including the Baldwin School, Devotion School, Old Lincoln School, and the Lynch Center. (The School Facilities Committee has not looked at enrollment policies or scheduling alternatives as a way to address increased enrollment since those considerations are within the purview of the School Committee.)

In both FY08 and FY10, Town Meeting appropriated $400,000 to address space needs. That $800,000 has been used to fund the costs associated with creating the

additional classroom spaces that the Schools have required. In FY11, Town Meeting appropriated an additional $530,000 to continue the necessary work. Those funds have been used to implement various mitigation measures, consisting primarily of the remodeling and renovation of internal spaces within each of the schools, with the goal of creating quality space within current constraints.

The $1.75 million proposed for FY13 will allow the School Department to explore all options for space, including the continuation of work to create classrooms within existing buildings, a process that is more complex and challenging each year as the amount of convertible space is reduced. The School Department's projected need is an additional 21 elementary classrooms by FY16, assuming the continuation of incoming Kindergarten classes of approximately 600 students. Of the proposed total of $1.75 million, $380,000 is reappropriated from the landfill project and $180,000 from the Heath School project.

**66. UAB - ROOF/CHIMNEY/ POINTING/GUTTERS & DOWNSPOUTS**
**Requested/Recommended - $1,300,000 (General Fund Bond)**

The exterior of the Unified Arts Building at the High School is in need of repointing, and the building's roof, gutters, and downspouts are in need of repair or replacement. 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. The chimney for the heating and lighting plant is also in need of repair or repointing (but not relining).

FY 12 CIP funds paid for plans and specifications for the job; FY 13 funds ($1.3 million) will pay for the work.

**67. WALDSTEIN PLAYGROUND RENOVATION**
**Requested/Recommended - $1,350,000 (General Fund Bond)**

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, a 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 last renovated in the early 1990s.

The project will include 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. In addition, improvements to the small building located near the tennis courts will also be undertaken and will encompass ADA-compliant restrooms, new windows, doors, light fixtures, roof, and plumbing fixtures. The overall project is estimated at $1,350,000 and will be bonded.

**67. WARREN FIELD / PLAYGROUND**
**Requested/Recommended - $800,000 (General Fund Bond)**

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, two tennis backboards, 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 a Recreation Department After-School program, 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.

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

VOTED: To approve the budget for fiscal year 2013 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 repairs to public building appropriations.

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 FY2013 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 #20) 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 #19), 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 $97,790 effective July 1, 2012, 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 any benefit-eligible 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:

| | |
|---|---|
| Salaries | $380,393 |
| Purchase of Services | $121,566 |
| Supplies | $148,200 |
| Other | $4,100 |
| Utilities | $93,385 |
| Capital | $83,900 |
| Debt Service | $192,419 |
| Reserve | $25,000 |
| Total Appropriations | $1,048,962 |
| | |
| Indirect Costs | $155,038 |
| | |
| Total Costs | $1,204,000 |

Total costs of $1,204,000 to be funded from golf receipts with $155,038 to be reimbursed to the General Fund for indirect costs.

**7.) WATER AND SEWER ENTERPRISE FUND:** The following sums, totaling $26,331,331, 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:

| | Water | Sewer | Total |
|---|---|---|---|
| Salaries | 1,998,413 | 341,331 | 2,339,744 |
| Purchase of Services | 166,389 | 149,700 | 316,089 |
| Supplies | 102,020 | 21,000 | 123,020 |
| Other | 6,400 | 0 | 6,400 |
| Utilities | 162,488 | 0 | 162,488 |
| Capital | 490,150 | 180,500 | 670,650 |
| Intergovernmental | 5,689,570 | 12,531,272 | 18,220,842 |
| Debt Service | 1,244,525 | 1,130,879 | 2,375,404 |
| Reserve | 113,641 | 147,065 | 260,706 |
| Total Appropriations | 9,973,597 | 14,501,746 | 24,475,343 |
| | | | |
| Indirect Costs | 1,504,188 | 351,799 | 1,855,987 |
| | | | |
| Total Costs | 11,477,785 | 14,853,545 | 26,331,331 |

Total costs of $26,331,331 to be funded from water and sewer receipts with $1,855,987 to be reimbursed to the General Fund for indirect costs.

**8.) REVOLVING FUNDS:**

a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed $2,500,000.

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 $160,000.

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

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

**9.) SCHOOLHOUSE MAINTENANCE AND REPAIR**: The sum of $4,541,699, 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 $419,777, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article.

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

| | |
|---|---|
| Parking Meter Special Revenue Fund | $3,950,000 |
| [to the General Fund for the Department of Public Works - $1,925,000] | |
| [to the General Fund for the Police Department - $1,925,000] | |
| [to the General Fund for Special Appropriations (CIP) - $100,000] | |
| State Library Aid Special Revenue Fund | $ 41,555 |
| [to the General Fund for the Library] | |
| Cemetery Sales Special Revenue Fund | $ 50,000 |
| [to the General Fund for the Department of Public Works] | |
| Recreation Revolving Fund | $ 281,764 |
| [to the General Fund for benefits reimbursement] | |
| Sale of Town-Owned Land Fund | $3,250,000 |
| [to the General Fund for Special Appropriations (CIP)] | |

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

**13.) SPECIAL APPROPRIATIONS**: The appropriations set forth as items 34 through 67, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #66 - 67, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

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

35.) Raise and appropriate $50,000, to be expended under the direction of the Director of Planning and Community Development, with any necessary contracts to be approved by the Board of Selectmen and the Economic Development Advisory Board, for commercial area improvements.

36.) Raise and appropriate $50,000, to be expended under the direction of the Fire Chief, with any necessary contracts to be approved by the Board of Selectmen, for the refurbishment of Fire Engine #3.

37.) Raise and appropriate $320,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for making extraordinary repairs to Fire Station #1.

38.) Raise and appropriate $75,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for bicycle access improvements; provided that no funds shall be expended for the Park Street project until December 31, 2012.

39.) Raise and appropriate $25,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for a study of the Harvard Street / Green Street pedestrian crossing.

40.) Raise and appropriate $1,470,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by 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.

41.) Raise and appropriate $276,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of sidewalks.

42.) Raise and appropriate $65,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for deposit into the Sidewalk Revolving Fund; transfer said funds to the Sidewalk Revolving Fund (SW39).

43.) Raise and appropriate $85,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of Town-owned parking lots; with the understanding that the Town Engineer has agreed to make a good faith attempt to use pervious pavement on a small portion of the area of the lot, the size and scope of which he may determine in his discretion, as a pilot project.

44.) Raise and appropriate $100,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for enhancements to the Parking Meter System.

45.) Raise and appropriate $300,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for all costs associated with repairing, reinforcing, and stabilizing the floor at the Municipal Service Center.

46.) Raise and appropriate $3,250,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for costs associated with the construction of a park/playground/field at the site of the old Fisher Hill Reservoir.

47.) Raise and appropriate $285,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.

48.) Raise and appropriate $80,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of Town and School grounds.

49.) Raise and appropriate $165,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.

50.) Raise and appropriate $280,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Cemetery Trustees, for upgrades to the Old Burial Grounds.

51.) Raise and appropriate $500,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for costs associated with the construction of a maintenance building at the Robert T. Lynch Golf Course at Putterham Meadows; provided that said funding shall be repaid, without interest, to the General Fund from the Golf Enterprise Fund, said payments to be made over a twenty year period, with annual minimum payments of $25,000 each year with the first payment to be made no later than June 30, 2014.

52.) Raise and appropriate $50,000, to be expended under the direction of the Chief Procurement Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for school furniture upgrades.

53.) Raise and appropriate $60,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for ADA renovations to Town and School buildings.

54.) Raise and appropriate $250,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for improvements to elevators in Town and School facilities.

55.) Raise and appropriate $125,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of emergency generators and/or installation of emergency lights or circuits.

56.) Raise and appropriate $150,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for energy conservation projects in Town and School buildings.

57.) Raise and appropriate $100,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for upgrades to energy management systems in Town and School buildings.

58.) Raise and appropriate $60,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for removal of hazardous materials from Town and School buildings.

59.) Raise and appropriate $150,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for improvements to life safety systems and building security in Town and School facilities.

60.) Raise and appropriate $250,000, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the replacement of intercom systems in School buildings.

61.) Raise and appropriate $25,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for repairs to the auditorium stage at the High School.

62.) Raise and appropriate $50,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for a space needs study of the High School.

63.) Raise and appropriate $500,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for costs associated with structural repairs to the exterior surface at the Old Lincoln School.

64.) Raise and appropriate $37,500, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for engineering or architectural services for plans and

specifications associated with the upgrade of the electrical distribution system at the Pierce School.

65.) Appropriate $1,750,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the expansion of classroom capacity in various schools; to meet the appropriation raise $1,190,000; transfer $380,000 from the balance remaining in the appropriation voted under Article 8, Section 13, Item 49 of the 2008 Annual Town Meeting; and transfer $180,000 from the balance remaining in the appropriation voted under Article 1 of the 2010 Special Town Meeting.

66.) Appropriate $1,300,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for remodeling, reconstructing, or making extraordinary repairs to the Unified Arts Building (UAB), and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $1,300,000 under General Laws, Chapter 44, Section7(3A), 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.

67.) Appropriate $2,150,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for the renovations of Waldstein Playground and Warren Field / Playground, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $2,150,000 under General Laws, Chapter 44, Section 7(25), 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; provided that no funds shall be expended for said renovations prior to December 1, 2012.

**14.)** **FREE CASH**: Appropriate and transfer $5,336,413 from free cash for the following purposes:

a.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $486,736;
b.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – $253,669;
c.) Reduce the tax rate (Special Appropriations) – $3,947,729;
d.) Housing Trust Fund – $251,363;
e.) Retiree Healthcare Liability Trust Fund (Chapter 472 of the Acts of 1998, as amended) - $211,256;
f.) Public Safety Injured On Duty (IOD) Medical Expenses Trust Fund (Chapter 40 of the Acts of 2006) - $185,660.

**AMENDED FY13 BUDGET - TABLE 1**

| | | FY09 ACTUAL | FY10 ACTUAL | FY11 ACTUAL | FY12 BUDGET | FY13 BUDGET | $$ CHANGE FROM FY12 | % CHANGE FROM FY12 |
|---|---|---|---|---|---|---|---|---|
| | **REVENUES** | | | | | | | |
| | Property Taxes | 146,542,184 | 152,586,904 | 155,898,463 | 163,620,489 | 169,848,463 | 6,227,974 | 3.8% |
| | Local Receipts | 22,455,149 | 21,038,710 | 22,611,569 | 20,275,792 | 21,084,438 | 808,645 | 4.0% |
| | State Aid | 17,962,793 | 16,542,765 | 13,808,845 | 13,383,563 | 14,806,425 | 1,422,862 | 10.6% |
| | Free Cash | 5,954,963 | 7,053,295 | 4,590,079 | 5,380,264 | 5,336,413 | (43,851) | -0.8% |
| | Overlay Surplus | 0 | 1,505,000 | 0 | 0 | 0 | 0 | - |
| | Other Available Funds | 5,986,333 | 5,915,039 | 5,080,435 | 6,218,966 | 10,144,344 | 3,925,377 | 63.1% |
| | **TOTAL REVENUE** | **198,901,422** | **204,641,712** | **201,989,391** | **208,879,075** | **221,220,083** | **12,341,008** | **5.9%** |
| | **EXPENDITURES** | | | | | | | |
| | **DEPARTMENTAL EXPENDITURES** | | | | | | | |
| | 1 . Selectmen | 635,977 | 619,934 | 637,941 | 619,759 | 625,898 | 6,139 | 1.0% |
| | 2 . Human Resources | 457,626 | 513,823 | 485,181 | 518,942 | 507,186 | (11,756) | -2.3% |
| | 3 . Information Technology | 1,386,089 | 1,354,537 | 1,399,699 | 1,432,526 | 1,463,774 | 31,248 | 2.2% |
| | 4 . Finance Department | 3,368,994 | 2,982,499 | 2,959,441 | 2,986,278 | 2,966,751 | (19,527) | -0.7% |
| | 5 . Legal Services | 749,476 | 754,535 | 752,924 | 781,304 | 784,384 | 3,080 | 0.4% |
| | 6 . Advisory Committee | 17,938 | 15,675 | 19,065 | 20,033 | 21,118 | 1,085 | 5.4% |
| | 7 . Town Clerk | 604,410 | 493,094 | 613,978 | 574,204 | 625,299 | 51,095 | 8.9% |
| | 8 . Planning and Community Development | 593,156 | 590,488 | 642,151 | 615,763 | 619,572 | 3,809 | 0.6% |
| | 9 . Police | 14,680,249 | 14,307,709 | 14,812,957 | 14,731,101 | 14,877,838 | 146,737 | 1.0% |
| | 10 . Fire | 12,280,892 | 11,949,902 | 12,192,327 | 12,315,250 | 12,435,279 | 120,029 | 1.0% |
| | 11 . Building | 6,965,035 | 6,630,751 | 6,868,280 | 6,860,486 | 6,890,412 | 29,926 | 0.4% |
| (1) | 12 . Public Works | 13,896,651 | 13,309,224 | 14,369,186 | 13,230,416 | 13,484,466 | 254,050 | 1.9% |
| | *a. Administration* | *920,805* | *968,085* | *784,885* | *771,340* | *794,483* | *23,143* | *3.0%* |
| | *b. Engineering/Transportation* | *929,115* | *885,700* | *904,244* | *1,065,803* | *1,077,201* | *11,398* | *1.1%* |
| | *c. Highway* | *4,710,556* | *4,640,204* | *4,760,574* | *4,854,813* | *4,776,451* | *(78,362)* | *-1.6%* |
| | *d. Sanitation* | *2,593,323* | *2,731,757* | *2,668,210* | *2,940,903* | *2,938,452* | *(2,451)* | *-0.1%* |
| | *e. Parks and Open Space* | *3,119,380* | *3,131,708* | *2,957,405* | *3,182,580* | *3,478,101* | *295,521* | *9.3%* |
| | *f. Snow and Ice* | *1,623,472* | *951,770* | *2,293,867* | *414,977* | *419,777* | *4,800* | *1.2%* |
| | 13 . Library | 3,489,100 | 3,521,560 | 3,550,657 | 3,592,249 | 3,683,992 | 91,743 | 2.6% |
| | 14 . Health | 1,088,050 | 1,097,022 | 1,100,297 | 1,141,116 | 1,122,059 | (19,058) | -1.7% |
| | 15 . Veterans' Services | 241,303 | 242,235 | 281,170 | 247,955 | 290,996 | 43,041 | 17.4% |
| | 16 . Council on Aging | 767,625 | 729,713 | 775,730 | 826,481 | 858,351 | 31,870 | 3.9% |
| | 17 . Human Relations | 151,702 | 103,587 | 106,203 | 104,461 | 104,251 | (210) | -0.2% |
| | 18 . Recreation | 912,909 | 905,021 | 895,904 | 1,008,679 | 1,014,283 | 5,605 | 0.6% |
| (2) | 19 . Personnel Services Reserve | 750,000 | 750,000 | 750,000 | 715,000 | 715,000 | 0 | 0.0% |
| (2) | 20 . Collective Bargaining - Town | 3,042,804 | 75,000 | 475,000 | 881,472 | 1,775,000 | 893,528 | 101.4% |
| | *Subtotal Town* | *62,287,183* | *60,121,308* | *62,463,090* | *63,203,475* | *64,865,909* | *1,662,435* | *2.6%* |
| | 21 . *Schools* | *68,000,450* | *69,323,844* | *72,043,133* | *75,387,188* | *78,649,602* | *3,262,414* | *4.3%* |
| | **TOTAL DEPARTMENTAL EXPENDITURES** | **130,287,633** | **129,445,152** | **134,506,223** | **138,590,662** | **143,515,512** | **4,924,849** | **3.6%** |
| | **NON-DEPARTMENTAL EXPENDITURES** | | | | | | | |
| (1) | 22 . Employee Benefits | 36,103,405 | 40,355,929 | 39,606,017 | 42,108,263 | 45,569,508 | 3,461,245 | 8.2% |
| (3) | *a. Pensions* | *11,686,639* | *13,253,562* | *13,975,800* | *14,612,334* | *15,422,765* | *810,431* | *5.5%* |
| | *b. Group Health* | *20,860,382* | *22,983,067* | *19,906,659* | *21,680,402* | *23,425,155* | *1,744,753* | *8.0%* |
| | *c. Health Reimbursement Account (HRA)* | *0* | *0* | *0* | *250,000* | *125,000* | *(125,000)* | *-50.0%* |
| (3) | *d. Retiree Group Health Trust Fund (OPEB's)* | *0* | *650,000* | *2,012,531* | *1,801,527* | *2,601,928* | *800,401* | *44.4%* |
| | *d. Employee Assistance Program (EAP)* | *25,282* | *25,282* | *25,282* | *28,000* | *28,000* | *0* | *0.0%* |
| | *f. Group Life* | *150,971* | *128,109* | *129,218* | *130,000* | *150,000* | *20,000* | *15.4%* |
| | *g. Disability Insurance* | *13,460* | *13,536* | *13,206* | *16,000* | *16,000* | *0* | *0.0%* |
| (3) | *h. Worker's Compensation* | *1,550,000* | *1,350,000* | *1,350,000* | *1,250,000* | *1,200,000* | *(50,000)* | *-4.0%* |
| (3) | *i. Public Safety IOD Medical Expenses* | *300,000* | *300,000* | *325,000* | *300,000* | *560,660* | *260,660* | *86.9%* |
| (3) | *j. Unemployment Compensation* | *166,000* | *266,000* | *400,000* | *350,000* | *350,000* | *0* | *0.0%* |
| | *k. Medical Disabilities* | *9,963* | *15,507* | *20,248* | *30,000* | *30,000* | *0* | *0.0%* |
| | *l. Medicare Coverage* | *1,340,708* | *1,370,866* | *1,448,073* | *1,660,000* | *1,660,000* | *0* | *0.0%* |
| (2) | 23 . Reserve Fund | 1,297,947 | 1,392,000 | 1,603,475 | 1,877,151 | 1,946,946 | 69,795 | 3.7% |
| | 24 Stabilization Fund | 0 | 0 | 71,868 | 253,092 | 0 | (253,092) | -100.0% |

| | | FY09 ACTUAL | FY10 ACTUAL | FY11 ACTUAL | FY12 BUDGET | FY13 BUDGET | $$ CHANGE FROM FY12 | % CHANGE FROM FY12 |
|---|---|---|---|---|---|---|---|---|
| | 25 Affordable Housing | | | 0 | 355,264 | 251,363 | (103,901) | -29.2% |
| | 26 . Liability/Catastrophe Fund | 297,476 | 1,443,397 | 455,500 | 141,959 | 253,669 | 111,710 | 78.7% |
| | 27 . General Insurance | 279,490 | 286,128 | 251,526 | 275,000 | 275,000 | 0 | 0.0% |
| | 28 . Audit/Professional Services | 86,765 | 135,900 | 138,560 | 130,000 | 130,000 | 0 | 0.0% |
| | 29 . Contingency Fund | 13,905 | 10,725 | 14,791 | 15,000 | 15,000 | 0 | 0.0% |
| | 30 . Out-of-State Travel | 1,076 | 434 | 0 | 3,000 | 3,000 | 0 | 0.0% |
| | 31 . Printing of Warrants & Reports | 17,143 | 16,665 | 19,205 | 20,000 | 20,000 | 0 | 0.0% |
| | 32 . MMA Dues | 11,178 | 11,178 | 11,417 | 12,419 | 12,729 | 310 | 2.5% |
| | *Subtotal General* | *707,033* | *1,904,427* | *962,867* | *3,082,885* | *2,907,707* | *(175,178)* | *-5.7%* |
| (1) | 33 . Borrowing | 12,173,327 | 11,886,156 | 9,491,021 | 10,404,421 | 10,046,874 | (357,547) | -3.4% |
| | *a. Funded Debt - Principal* | *8,247,516* | *7,796,867* | *7,264,649* | *7,975,489* | *7,422,382* | *(553,107)* | *-6.9%* |
| | *b. Funded Debt - Interest* | *3,884,000* | *4,077,092* | *2,176,113* | *2,268,932* | *2,464,492* | *195,560* | *8.6%* |
| | *c. Bond Anticipation Notes* | *0* | *0* | *0* | *100,000* | *100,000* | *0* | *0.0%* |
| | *d. Abatement Interest and Refunds* | *41,811* | *12,197* | *50,259* | *60,000* | *60,000* | *0* | *0.0%* |
| | **TOTAL NON-DEPARTMENTAL EXPENDITURES** | **48,983,765** | **54,146,512** | **50,059,905** | **55,595,568** | **58,524,088** | **2,928,520** | **5.3%** |
| | **TOTAL GENERAL APPROPRIATIONS** | **179,271,398** | **183,591,664** | **184,566,128** | **194,186,231** | **202,039,600** | **7,853,369** | **4.0%** |
| | **SPECIAL APPROPRIATIONS** | | | | | | | |
| | 34 . Technology Applications (revenue financed) | | | | | 250,000 | | |
| | 35 . Commercial Areas Improvements (revenue financed) | | | | | 50,000 | | |
| | 36 . Fire Apparatus Rehabilitation (revenue financed) | | | | | 50,000 | | |
| | 37 . Fire Station Renovations (revenue financed) | | | | | 320,000 | | |
| | 38 . Bicycle Access Improvements (revenue financed) | | | | | 75,000 | | |
| | 39 . Harvard / Green Pedestrian Crossing Study (revenue financed) | | | | | 25,000 | | |
| | 40 . Street Rehabilitation (revenue financed) | | | | | 1,470,000 | | |
| | 41 . Sidewalk Repair/Reconstruction (revenue financed) | | | | | 276,000 | | |
| | 42 . Sidewalk Revolving Fund (revenue financed) | | | | | 65,000 | | |
| | 43 . Parking Lot Rehabilitation (revenue financed) | | | | | 85,000 | | |
| | 44 . Parking Meter System Enhancements (revenue financed from Parking Meter Fund) | | | | | 100,000 | | |
| | 45 . Municipal Service Center Floor Repairs (revenue financed) | | | | | 300,000 | | |
| | 46 . Fisher Hill - Field/Playground (Sale of Town-owned Land Fund) | | | | | 3,250,000 | | |
| | 47 . Playground Equipment, Fields, Fencing (revenue financed) | | | | | 285,000 | | |
| | 48 . Town/School Grounds Rehab (revenue financed) | | | | | 80,000 | | |
| | 49 . Tree Removal and Replacement (revenue financed) | | | | | 165,000 | | |
| | 50 . Old Burial Ground (revenue financed) | | | | | 280,000 | | |
| | 51 . Golf Course Maintenance Building Replacement (revenue financed) | | | | | 500,000 | | |
| | 52 . School Furniture Upgrades (revenue financed) | | | | | 50,000 | | |
| | 53 . Town/School ADA Renovations (revenue financed) | | | | | 60,000 | | |
| | 54 . Town/School Elevator Renovations (revenue financed) | | | | | 250,000 | | |
| | 55 . Town/School Emergency Generator Replacement (revenue financed) | | | | | 125,000 | | |
| | 56 . Town/School Energy Conservation Projects (revenue financed) | | | | | 150,000 | | |
| | 57 . Town/School Energy Management Systems (revenue financed) | | | | | 100,000 | | |
| | 58 . Town/School Hazardous Material Removal (revenue financed) | | | | | 60,000 | | |
| | 59 . Town/School Building Security / Life Safety (revenue financed) | | | | | 150,000 | | |
| | 60 . School Intercom System Replacement (revenue financed) | | | | | 250,000 | | |
| | 61 . High School Stage (revenue financed) | | | | | 25,000 | | |
| | 62 . High School Space Needs Study (revenue financed) | | | | | 50,000 | | |
| | 63 . Old Lincoln Surface Structural Repairs (revenue financed) | | | | | 500,000 | | |
| | 64 . Pierce School Electric Distribution Upgrade - Design (revenue financed) | | | | | 37,500 | | |
| | 65 . Classroom Capacity ($1.19 million = revenue financed, $560,000 = reappropriation of existing funds) | | | | | 1,750,000 | | |
| | 66 . Unified Arts Building (UAB) Repairs/Renovations (bond) | | | | | 1,300,000 | | |
| | 67 . Waldstein Playground / Warren Field (bond) | | | | | 2,150,000 | | |
| (4) | **TOTAL SPECIAL APPROPRIATIONS** | **8,575,748** | **9,260,572** | **7,102,000** | **6,979,000** | **11,183,500** | **4,204,500** | **60.2%** |
| | **TOTAL APPROPRIATED EXPENDITURES** | **187,847,146** | **192,852,236** | **191,668,128** | **201,165,231** | **213,223,100** | **12,057,869** | **6.0%** |
| | **NON-APPROPRIATED EXPENDITURES** | | | | | | | |
| | Cherry Sheet Offsets | 122,866 | 103,079 | 102,036 | 106,839 | 109,160 | 2,321 | 2.2% |
| | State & County Charges | 5,493,891 | 5,559,230 | 5,576,032 | 5,671,508 | 6,162,822 | 491,314 | 8.7% |

| | FY09 ACTUAL | FY10 ACTUAL | FY11 ACTUAL | FY12 BUDGET | FY13 BUDGET | $$ CHANGE FROM FY12 | % CHANGE FROM FY12 |
|---|---|---|---|---|---|---|---|
| Overlay | 1,535,026 | 1,619,163 | 1,795,169 | 1,910,496 | 1,700,000 | (210,496) | -11.0% |
| Deficits-Judgments-Tax Titles | 13,814 | 9,428 | 8,615 | 25,000 | 25,000 | 0 | 0.0% |
| **TOTAL NON-APPROPRIATED EXPEND.** | **7,165,597** | **7,290,900** | **7,481,852** | **7,713,843** | **7,996,982** | **283,139** | **3.7%** |
| **TOTAL EXPENDITURES** | **195,012,743** | **200,143,136** | **199,149,980** | **208,879,074** | **221,220,083** | **12,341,009** | **5.9%** |
| **SURPLUS/(DEFICIT)** | **3,888,678** | **4,498,576** | **2,839,411** | **0** | **0** | | |

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

**FY13 BUDGET - TABLE 1**

| | | FY09 ACTUAL | FY10 ACTUAL | FY11 ACTUAL | FY12 BUDGET | FY13 BUDGET | $$ CHANGE FROM FY12 | % CHANGE FROM FY12 |
|---|---|---|---|---|---|---|---|---|
| | **REVENUES** | | | | | | | |
| | Property Taxes | 146,542,184 | 152,586,904 | 155,898,463 | 163,620,489 | 169,848,463 | 6,227,974 | 3.8% |
| | Local Receipts | 22,455,149 | 21,038,710 | 22,611,569 | 20,275,792 | 21,084,438 | 808,645 | 4.0% |
| | State Aid | 17,962,793 | 16,542,765 | 13,808,845 | 13,383,563 | 14,806,425 | 1,422,862 | 10.6% |
| | Free Cash | 5,954,963 | 7,053,295 | 4,590,079 | 5,380,264 | 5,336,413 | (43,851) | -0.8% |
| | Overlay Surplus | 0 | 1,505,000 | 0 | 0 | 0 | 0 | - |
| | Other Available Funds | 5,986,333 | 5,915,039 | 5,080,435 | 6,218,966 | 10,144,344 | 3,925,377 | 63.1% |
| | **TOTAL REVENUE** | **198,901,422** | **204,641,712** | **201,989,391** | **208,879,075** | **221,220,083** | **12,341,008** | **5.9%** |
| | **EXPENDITURES** | | | | | | | |
| | **DEPARTMENTAL EXPENDITURES** | | | | | | | |
| | 1 . Selectmen | 635,977 | 619,934 | 637,941 | 619,759 | 625,898 | 6,139 | 1.0% |
| | 2 . Human Resources | 457,626 | 513,823 | 485,181 | 518,942 | 507,186 | (11,756) | -2.3% |
| | 3 . Information Technology | 1,386,089 | 1,354,537 | 1,399,699 | 1,432,526 | 1,463,774 | 31,248 | 2.2% |
| | 4 . Finance Department | 3,368,994 | 2,982,499 | 2,959,441 | 2,986,278 | 2,966,751 | (19,527) | -0.7% |
| | 5 . Legal Services | 749,476 | 754,535 | 752,924 | 781,304 | 784,384 | 3,080 | 0.4% |
| | 6 . Advisory Committee | 17,938 | 15,675 | 19,065 | 20,033 | 21,118 | 1,085 | 5.4% |
| | 7 . Town Clerk | 604,410 | 493,094 | 613,978 | 574,204 | 625,299 | 51,095 | 8.9% |
| | 8 . Planning and Community Development | 593,156 | 590,488 | 642,151 | 615,763 | 619,572 | 3,809 | 0.6% |
| | 9 . Police | 14,680,249 | 14,307,709 | 14,812,957 | 14,731,101 | 14,877,838 | 146,737 | 1.0% |
| | 10 . Fire | 12,280,892 | 11,949,902 | 12,192,327 | 12,315,250 | 12,435,279 | 120,029 | 1.0% |
| | 11 . Building | 6,965,035 | 6,630,751 | 6,868,280 | 6,860,486 | 6,890,412 | 29,926 | 0.4% |
| (1) | 12 . Public Works | 13,896,651 | 13,309,224 | 14,369,186 | 13,230,416 | 13,484,466 | 254,050 | 1.9% |
| | *a. Administration* | *920,805* | *968,085* | *784,885* | *771,340* | *794,483* | *23,143* | *3.0%* |
| | *b. Engineering/Transportation* | *929,115* | *885,700* | *904,244* | *1,065,803* | *1,077,201* | *11,398* | *1.1%* |
| | *c. Highway* | *4,710,556* | *4,640,204* | *4,760,574* | *4,854,813* | *4,776,451* | *(78,362)* | *-1.6%* |
| | *d. Sanitation* | *2,593,323* | *2,731,757* | *2,668,210* | *2,940,903* | *2,938,452* | *(2,451)* | *-0.1%* |
| | *e. Parks and Open Space* | *3,119,380* | *3,131,708* | *2,957,405* | *3,182,580* | *3,478,101* | *295,521* | *9.3%* |
| | *f. Snow and Ice* | *1,623,472* | *951,770* | *2,293,867* | *414,977* | *419,777* | *4,800* | *1.2%* |
| | 13 . Library | 3,489,100 | 3,521,560 | 3,550,657 | 3,592,249 | 3,675,992 | 83,743 | 2.3% |
| | 14 . Health | 1,088,050 | 1,097,022 | 1,100,297 | 1,141,116 | 1,122,059 | (19,058) | -1.7% |
| | 15 . Veterans' Services | 241,303 | 242,235 | 281,170 | 247,955 | 290,996 | 43,041 | 17.4% |
| | 16 . Council on Aging | 767,625 | 729,713 | 775,730 | 826,481 | 858,351 | 31,870 | 3.9% |
| | 17 . Human Relations | 151,702 | 103,587 | 106,203 | 104,461 | 104,251 | (210) | -0.2% |
| | 18 . Recreation | 912,909 | 905,021 | 895,904 | 1,008,679 | 1,014,283 | 5,605 | 0.6% |
| (2) | 19 . Personnel Services Reserve | 750,000 | 750,000 | 750,000 | 715,000 | 715,000 | 0 | 0.0% |
| (2) | 20 . Collective Bargaining - Town | 3,042,804 | 75,000 | 475,000 | 881,472 | 1,775,000 | 893,528 | 101.4% |
| | *Subtotal Town* | *62,287,183* | *60,121,308* | *62,463,090* | *63,203,475* | *64,857,909* | *1,654,435* | *2.6%* |
| | 21 . *Schools* | *68,000,450* | *69,323,844* | *72,043,133* | *75,387,188* | *78,649,602* | *3,262,414* | *4.3%* |
| | **TOTAL DEPARTMENTAL EXPENDITURES** | **130,287,633** | **129,445,152** | **134,506,223** | **138,590,662** | **143,507,512** | **4,916,849** | **3.5%** |
| | **NON-DEPARTMENTAL EXPENDITURES** | | | | | | | |
| (1) | 22 . Employee Benefits | 36,103,405 | 40,355,929 | 39,606,017 | 42,108,263 | 45,577,508 | 3,469,245 | 8.2% |
| (3) | *a. Pensions* | *11,686,639* | *13,253,562* | *13,975,800* | *14,612,334* | *15,422,765* | *810,431* | *5.5%* |
| | *b. Group Health* | *20,860,382* | *22,983,067* | *19,906,659* | *21,680,402* | *23,433,155* | *1,752,753* | *8.1%* |
| | *c. Health Reimbursement Account (HRA)* | *0* | *0* | *0* | *250,000* | *125,000* | *(125,000)* | *-50.0%* |
| (3) | *d. Retiree Group Health Trust Fund (OPEB's)* | *0* | *650,000* | *2,012,531* | *1,801,527* | *2,601,928* | *800,401* | *44.4%* |
| | *d. Employee Assistance Program (EAP)* | *25,282* | *25,282* | *25,282* | *28,000* | *28,000* | *0* | *0.0%* |
| | *f. Group Life* | *150,971* | *128,109* | *129,218* | *130,000* | *150,000* | *20,000* | *15.4%* |
| | *g. Disability Insurance* | *13,460* | *13,536* | *13,206* | *16,000* | *16,000* | *0* | *0.0%* |
| (3) | *h. Worker's Compensation* | *1,550,000* | *1,350,000* | *1,350,000* | *1,250,000* | *1,200,000* | *(50,000)* | *-4.0%* |
| (3) | *i. Public Safety IOD Medical Expenses* | *300,000* | *300,000* | *325,000* | *300,000* | *560,660* | *260,660* | *86.9%* |
| (3) | *j. Unemployment Compensation* | *166,000* | *266,000* | *400,000* | *350,000* | *350,000* | *0* | *0.0%* |
| | *k. Medical Disabilities* | *9,963* | *15,507* | *20,248* | *30,000* | *30,000* | *0* | *0.0%* |
| | *l. Medicare Coverage* | *1,340,708* | *1,370,866* | *1,448,073* | *1,660,000* | *1,660,000* | *0* | *0.0%* |
| (2) | 23 . Reserve Fund | 1,297,947 | 1,392,000 | 1,603,475 | 1,877,151 | 1,946,946 | 69,795 | 3.7% |
| | 24 Stabilization Fund | 0 | 0 | 71,868 | 253,092 | 0 | (253,092) | -100.0% |

| | | FY09 ACTUAL | FY10 ACTUAL | FY11 ACTUAL | FY12 BUDGET | FY13 BUDGET | $$ CHANGE FROM FY12 | % CHANGE FROM FY12 |
|---|---|---|---|---|---|---|---|---|
| | 25 Affordable Housing | | | 0 | 355,264 | 251,363 | (103,901) | -29.2% |
| | 26 . Liability/Catastrophe Fund | 297,476 | 1,443,397 | 455,500 | 141,959 | 253,669 | 111,710 | 78.7% |
| | 27 . General Insurance | 279,490 | 286,128 | 251,526 | 275,000 | 275,000 | 0 | 0.0% |
| | 28 . Audit/Professional Services | 86,765 | 135,900 | 138,560 | 130,000 | 130,000 | 0 | 0.0% |
| | 29 . Contingency Fund | 13,905 | 10,725 | 14,791 | 15,000 | 15,000 | 0 | 0.0% |
| | 30 . Out-of-State Travel | 1,076 | 434 | 0 | 3,000 | 3,000 | 0 | 0.0% |
| | 31 . Printing of Warrants & Reports | 17,143 | 16,665 | 19,205 | 20,000 | 20,000 | 0 | 0.0% |
| | 32 . MMA Dues | 11,178 | 11,178 | 11,417 | 12,419 | 12,729 | 310 | 2.5% |
| | *Subtotal General* | *707,033* | *1,904,427* | *962,867* | *3,082,885* | *2,907,707* | *(175,178)* | *-5.7%* |
| (1) | 33 . Borrowing | 12,173,327 | 11,886,156 | 9,491,021 | 10,404,421 | 10,046,874 | (357,547) | -3.4% |
| | *a. Funded Debt - Principal* | *8,247,516* | *7,796,867* | *7,264,649* | *7,975,489* | *7,422,382* | *(553,107)* | *-6.9%* |
| | *b. Funded Debt - Interest* | *3,884,000* | *4,077,092* | *2,176,113* | *2,268,932* | *2,464,492* | *195,560* | *8.6%* |
| | *c. Bond Anticipation Notes* | *0* | *0* | *0* | *100,000* | *100,000* | *0* | *0.0%* |
| | *d. Abatement Interest and Refunds* | *41,811* | *12,197* | *50,259* | *60,000* | *60,000* | *0* | *0.0%* |
| | **TOTAL NON-DEPARTMENTAL EXPENDITURES** | **48,983,765** | **54,146,512** | **50,059,905** | **55,595,568** | **58,532,088** | **2,936,520** | **5.3%** |
| | **TOTAL GENERAL APPROPRIATIONS** | **179,271,398** | **183,591,664** | **184,566,128** | **194,186,231** | **202,039,600** | **7,853,369** | **4.0%** |
| | **SPECIAL APPROPRIATIONS** | | | | | | | |
| | 34 . Technology Applications (revenue financed) | | | | | 250,000 | | |
| | 35 . Commercial Areas Improvements (revenue financed) | | | | | 50,000 | | |
| | 36 . Fire Apparatus Rehabilitation (revenue financed) | | | | | 50,000 | | |
| | 37 . Fire Station Renovations (revenue financed) | | | | | 320,000 | | |
| | 38 . Bicycle Access Improvements (revenue financed) | | | | | 75,000 | | |
| | 39 . Harvard / Green Pedestrian Crossing Study (revenue financed) | | | | | 25,000 | | |
| | 40 . Street Rehabilitation (revenue financed) | | | | | 1,470,000 | | |
| | 41 . Sidewalk Repair/Reconstruction (revenue financed) | | | | | 276,000 | | |
| | 42 . Sidewalk Revolving Fund (revenue financed) | | | | | 65,000 | | |
| | 43 . Parking Lot Rehabilitation (revenue financed) | | | | | 85,000 | | |
| | 44 . Parking Meter System Enhancements (revenue financed from Parking Meter Fund) | | | | | 100,000 | | |
| | 45 . Municipal Service Center Floor Repairs (revenue financed) | | | | | 300,000 | | |
| | 46 . Fisher Hill - Field/Playground (Sale of Town-owned Land Fund) | | | | | 3,250,000 | | |
| | 47 . Playground Equipment, Fields, Fencing (revenue financed) | | | | | 285,000 | | |
| | 48 . Town/School Grounds Rehab (revenue financed) | | | | | 80,000 | | |
| | 49 . Tree Removal and Replacement (revenue financed) | | | | | 165,000 | | |
| | 50 . Old Burial Ground (revenue financed) | | | | | 280,000 | | |
| | 51 . Golf Course Maintenance Building Replacement (revenue financed) | | | | | 500,000 | | |
| | 52 . School Furniture Upgrades (revenue financed) | | | | | 50,000 | | |
| | 53 . Town/School ADA Renovations (revenue financed) | | | | | 60,000 | | |
| | 54 . Town/School Elevator Renovations (revenue financed) | | | | | 250,000 | | |
| | 55 . Town/School Emergency Generator Replacement (revenue financed) | | | | | 125,000 | | |
| | 56 . Town/School Energy Conservation Projects (revenue financed) | | | | | 150,000 | | |
| | 57 . Town/School Energy Management Systems (revenue financed) | | | | | 100,000 | | |
| | 58 . Town/School Hazardous Material Removal (revenue financed) | | | | | 60,000 | | |
| | 59 . Town/School Building Security / Life Safety (revenue financed) | | | | | 150,000 | | |
| | 60 . School Intercom System Replacement (revenue financed) | | | | | 250,000 | | |
| | 61 . High School Stage (revenue financed) | | | | | 25,000 | | |
| | 62 . High School Space Needs Study (revenue financed) | | | | | 50,000 | | |
| | 63 . Old Lincoln Surface Structural Repairs (revenue financed) | | | | | 500,000 | | |
| | 64 . Pierce School Electric Distribution Upgrade - Design (revenue financed) | | | | | 37,500 | | |
| | 65 . Classroom Capacity ($1.19 million = revenue financed, $560,000 = reappropriation of existing funds) | | | | | 1,750,000 | | |
| | 66 . Unified Arts Building (UAB) Repairs/Renovations (bond) | | | | | 1,300,000 | | |
| | 67 . Waldstein Playground / Warren Field (bond) | | | | | 2,150,000 | | |
| (4) | **TOTAL SPECIAL APPROPRIATIONS** | **8,575,748** | **9,260,572** | **7,102,000** | **6,979,000** | **11,183,500** | **4,204,500** | **60.2%** |
| | **TOTAL APPROPRIATED EXPENDITURES** | **187,847,146** | **192,852,236** | **191,668,128** | **201,165,231** | **213,223,100** | **12,057,869** | **6.0%** |
| | **NON-APPROPRIATED EXPENDITURES** | | | | | | | |
| | Cherry Sheet Offsets | 122,866 | 103,079 | 102,036 | 106,839 | 109,160 | 2,321 | 2.2% |
| | State & County Charges | 5,493,891 | 5,559,230 | 5,576,032 | 5,671,508 | 6,162,822 | 491,314 | 8.7% |

| | FY09 ACTUAL | FY10 ACTUAL | FY11 ACTUAL | FY12 BUDGET | FY13 BUDGET | $$ CHANGE FROM FY12 | % CHANGE FROM FY12 |
|---|---|---|---|---|---|---|---|
| Overlay | 1,535,026 | 1,619,163 | 1,795,169 | 1,910,496 | 1,700,000 | (210,496) | -11.0% |
| Deficits-Judgments-Tax Titles | 13,814 | 9,428 | 8,615 | 25,000 | 25,000 | 0 | 0.0% |
| **TOTAL NON-APPROPRIATED EXPEND.** | **7,165,597** | **7,290,900** | **7,481,852** | **7,713,843** | **7,996,982** | **283,139** | **3.7%** |
| **TOTAL EXPENDITURES** | **195,012,743** | **200,143,136** | **199,149,980** | **208,879,074** | **221,220,083** | **12,341,009** | **5.9%** |
| **SURPLUS/(DEFICIT)** | **3,888,678** | **4,498,576** | **2,839,411** | **0** | **0** | | |

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

**AMENDED FY13 BUDGET - TABLE 2**

| Department/Board/Commission | Personnel Services | Purchase of Services | Supplies | Other Charges/ Expenses | Utilities | Capital Outlay | Inter-Govt'al | Snow & Ice | Debt Service | Personnel Benefits | Agency Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Board of Selectmen (Town Administrator) | 605,270 | 6,868 | 4,000 | 6,600 | | 3,160 | | | | | 625,898 |
| Human Resources Department (Human Resources Director) | 262,867 | 201,219 | 8,500 | 31,000 | | 3,600 | | | | | 507,186 |
| Information Technology Department (Chief Information Officer) | 925,515 | 436,091 | 33,850 | 27,550 | | 40,769 | | | | | 1,463,774 |
| Finance Department (Director of Finance) | 1,964,742 | 930,566 | 37,710 | 16,165 | 2,318 | 15,250 | | | | | 2,966,751 |
| Legal Services (Town Counsel) | 549,367 | 124,017 | 3,300 | 104,700 | | 3,000 | | | | | 784,384 |
| Advisory Committee (Chair, Advisory Committee) | 17,942 | 36 | 2,275 | 570 | | 295 | | | | | 21,118 |
| Town Clerk (Town Clerk) | 529,427 | 78,223 | 13,750 | 1,400 | | 2,500 | | | | | 625,299 |
| Planning and Community Department (Plan. & Com. Dev. Dir.) | 584,137 | 16,673 | 9,212 | 4,550 | | 5,000 | | | | | 619,572 |
| Police Department (Police Chief) | 13,346,709 | 371,485 | 221,750 | 59,500 | 426,110 | 452,284 | | | | | 14,877,838 |
| Fire Department (Fire Chief) | 11,709,480 | 144,755 | 146,260 | 27,650 | 247,062 | 160,072 | | | | | 12,435,279 |
| Public Buildings Department (Building Commissioner) | 1,964,115 | 2,112,739 | 22,670 | 5,350 | 2,729,651 | 55,887 | | | | | 6,890,412 |
| Public Works Department (Commissioner of Public Works) | 7,139,016 | 3,107,685 | 724,807 | 38,900 | 1,378,447 | 655,833 | 20,000 | 419,777 | | | 13,484,466 |
| Public Library Department (Library Board of Trustees) | 2,550,352 | 167,396 | 542,520 | 3,700 | 337,922 | 82,101 | | | | | 3,683,992 |
| Health Department (Health Director) | 868,861 | 191,237 | 15,100 | 4,120 | 37,686 | 5,055 | | | | | 1,122,059 |
| Veterans' Services (Veterans' Services Director) | 153,907 | 2,729 | 650 | 133,185 | | 525 | | | | | 290,996 |
| Council on Aging (Council on Aging Director) | 662,809 | 32,277 | 18,000 | 2,900 | 70,366 | 72,000 | | | | | 858,351 |
| Human Relations/Youth Resources (Human Relations Dir.) | 98,890 | 1,761 | 2,600 | 450 | | 550 | | | | | 104,251 |
| Recreation Department (Recreation Director) | 694,548 | 75,897 | 70,980 | 12,400 | 154,079 | 6,380 | | | | | 1,014,283 |
| School Department (School Committee) | | | | | | | | | | | 78,649,602 |
| **Total Departmental Budgets** | **44,627,952** | **8,001,653** | **1,877,934** | **480,690** | **5,383,640** | **1,564,261** | **20,000** | **419,777** | | | **141,025,512** |
| | | | | | | | | | | | |
| **DEBT SERVICE** | | | | | | | | | | | |
| Debt Service (Director of Finance) | | | | | | | | | 10,046,874 | | 10,046,874 |
| **Total Debt Service** | | | | | | | | | **10,046,874** | | **10,046,874** |
| | | | | | | | | | | | |
| **EMPLOYEE BENEFITS** | | | | | | | | | | | |
| Contributory Pensions Contribution (Director of Finance) | | | | | | | | | | 15,272,765 | 15,272,765 |
| Non-Contributory Pensions Contribution (Director of Finance) | | | | | | | | | | 150,000 | 150,000 |
| Group Health Insurance (Human Resources Director) | | | | | | | | | | 23,425,155 | 23,425,155 |
| Health Reimbursement Account (HRA) (Human Resources Director) | | | | | | | | | | 125,000 | 125,000 |
| Retiree Group Health Insurance - OPEB's (Director of Finance) | | | | | | | | | | 2,601,928 | 2,601,928 |
| Employee Assistance Program (Human Resources Director) | | | | | | | | | | 28,000 | 28,000 |
| Group Life Insurance (Human Resources Director) | | | | | | | | | | 150,000 | 150,000 |
| Disability Insurance | | | | | | | | | | 16,000 | 16,000 |
| Workers' Compensation (Human Resources Director) | | | | | | | | | | 1,200,000 | 1,200,000 |
| Public Safety IOD Medical Expenses (Human Resources Director) | | | | | | | | | | 560,660 | 560,660 |
| Unemployment Insurance (Human Resources Director) | | | | | | | | | | 350,000 | 350,000 |
| Ch. 41, Sec. 100B Medical Benefits (Town Counsel) | | | | | | | | | | 30,000 | 30,000 |
| Medicare Payroll Tax (Director of Finance) | | | | | | | | | | 1,660,000 | 1,660,000 |
| **Total Employee Benefits** | | | | | | | | | | **45,569,508** | **45,569,508** |
| | | | | | | | | | | | |
| **GENERAL / UNCLASSIFIED** | | | | | | | | | | | |
| Reserve Fund (*) (Chair, Advisory Committee) | | | | 1,946,946 | | | | | | | 1,946,946 |
| Liability/Catastrophe Fund (Director of Finance) | | | | 253,669 | | | | | | | 253,669 |
| Housing Trust Fund (Planning & Community Develpoment Dir.) | | | | 251,363 | | | | | | | 251,363 |
| General Insurance (Town Administrator) | | 275,000 | | | | | | | | | 275,000 |
| Audit/Professional Services (Director of Finance) | | 130,000 | | | | | | | | | 130,000 |
| Contingency (Town Administrator) | | | | 15,000 | | | | | | | 15,000 |
| Out of State Travel (*) (Town Administrator) | | 3,000 | | | | | | | | | 3,000 |
| Printing of Warrants (Town Administrator) | | 10,000 | 10,000 | | | | | | | | 20,000 |
| MMA Dues (Town Administrator) | | | | 12,729 | | | | | | | 12,729 |
| Town Salary Reserve (*) (Director of Finance) | 1,775,000 | | | | | | | | | | 1,775,000 |
| Personnel Services Reserve (*) (Director of Finance) | 715,000 | | | | | | | | | | 715,000 |
| **Total General / Unclassified** | **2,490,000** | **418,000** | **10,000** | **2,479,707** | | | | | | | **5,397,707** |
| **TOTAL GENERAL APPROPRIATIONS** | **47,117,952** | **8,419,653** | **1,887,934** | **2,960,397** | **5,383,640** | **1,564,261** | **20,000** | **419,777** | **10,046,874** | **45,569,508** | **202,039,600** |

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

**FY13 BUDGET - TABLE 2**

| Department/Board/Commission | Personnel Services | Purchase of Services | Supplies | Other Charges/ Expenses | Utilities | Capital Outlay | Inter-Govt'al | Snow & Ice | Debt Service | Personnel Benefits | Agency Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Board of Selectmen (Town Administrator) | 605,270 | 6,868 | 4,000 | 6,600 | | 3,160 | | | | | 625,898 |
| Human Resources Department (Human Resources Director) | 262,867 | 201,219 | 8,500 | 31,000 | | 3,600 | | | | | 507,186 |
| Information Technology Department (Chief Information Officer) | 925,515 | 436,091 | 33,850 | 27,550 | | 40,769 | | | | | 1,463,774 |
| Finance Department (Director of Finance) | 1,964,742 | 930,566 | 37,710 | 16,165 | 2,318 | 15,250 | | | | | 2,966,751 |
| Legal Services (Town Counsel) | 549,367 | 124,017 | 3,300 | 104,700 | | 3,000 | | | | | 784,384 |
| Advisory Committee (Chair, Advisory Committee) | 17,942 | 36 | 2,275 | 570 | | 295 | | | | | 21,118 |
| Town Clerk (Town Clerk) | 529,427 | 78,223 | 13,750 | 1,400 | | 2,500 | | | | | 625,299 |
| Planning and Community Department (Plan. & Com. Dev. Dir.) | 584,137 | 16,673 | 9,212 | 4,550 | | 5,000 | | | | | 619,572 |
| Police Department (Police Chief) | 13,346,709 | 371,485 | 221,750 | 59,500 | 426,110 | 452,284 | | | | | 14,877,838 |
| Fire Department (Fire Chief) | 11,709,480 | 144,755 | 146,260 | 27,650 | 247,062 | 160,072 | | | | | 12,435,279 |
| Public Buildings Department (Building Commissioner) | 1,964,115 | 2,112,739 | 22,670 | 5,350 | 2,729,651 | 55,887 | | | | | 6,890,412 |
| Public Works Department (Commissioner of Public Works) | 7,139,016 | 3,107,685 | 724,807 | 38,900 | 1,378,447 | 655,833 | 20,000 | 419,777 | | | 13,484,466 |
| Public Library Department (Library Board of Trustees) | 2,542,352 | 167,396 | 542,520 | 3,700 | 337,922 | 82,101 | | | | | 3,675,992 |
| Health Department (Health Director) | 868,861 | 191,237 | 15,100 | 4,120 | 37,686 | 5,055 | | | | | 1,122,059 |
| Veterans' Services (Veterans' Services Director) | 153,907 | 2,729 | 650 | 133,185 | | 525 | | | | | 290,996 |
| Council on Aging (Council on Aging Director) | 662,809 | 32,277 | 18,000 | 2,900 | 70,366 | 72,000 | | | | | 858,351 |
| Human Relations/Youth Resources (Human Relations Dir.) | 98,890 | 1,761 | 2,600 | 450 | | 550 | | | | | 104,251 |
| Recreation Department (Recreation Director) | 694,548 | 75,897 | 70,980 | 12,400 | 154,079 | 6,380 | | | | | 1,014,283 |
| School Department (School Committee) | | | | | | | | | | | 78,649,602 |
| **Total Departmental Budgets** | **44,619,952** | **8,001,653** | **1,877,934** | **480,690** | **5,383,640** | **1,564,261** | **20,000** | **419,777** | | | **141,017,512** |
| | | | | | | | | | | | |
| **DEBT SERVICE** | | | | | | | | | | | |
| Debt Service (Director of Finance) | | | | | | | | | 10,046,874 | | 10,046,874 |
| **Total Debt Service** | | | | | | | | | **10,046,874** | | **10,046,874** |
| | | | | | | | | | | | |
| **EMPLOYEE BENEFITS** | | | | | | | | | | | |
| Contributory Pensions Contribution (Director of Finance) | | | | | | | | | | 15,272,765 | 15,272,765 |
| Non-Contributory Pensions Contribution (Director of Finance) | | | | | | | | | | 150,000 | 150,000 |
| Group Health Insurance (Human Resources Director) | | | | | | | | | | 23,433,155 | 23,433,155 |
| Health Reimbursement Account (HRA) (Human Resources Director) | | | | | | | | | | 125,000 | 125,000 |
| Retiree Group Health Insurance - OPEB's (Director of Finance) | | | | | | | | | | 2,601,928 | 2,601,928 |
| Employee Assistance Program (Human Resources Director) | | | | | | | | | | 28,000 | 28,000 |
| Group Life Insurance (Human Resources Director) | | | | | | | | | | 150,000 | 150,000 |
| Disability Insurance | | | | | | | | | | 16,000 | 16,000 |
| Workers' Compensation (Human Resources Director) | | | | | | | | | | 1,200,000 | 1,200,000 |
| Public Safety IOD Medical Expenses (Human Resources Director) | | | | | | | | | | 560,660 | 560,660 |
| Unemployment Insurance (Human Resources Director) | | | | | | | | | | 350,000 | 350,000 |
| Ch. 41, Sec. 100B Medical Benefits (Town Counsel) | | | | | | | | | | 30,000 | 30,000 |
| Medicare Payroll Tax (Director of Finance) | | | | | | | | | | 1,660,000 | 1,660,000 |
| **Total Employee Benefits** | | | | | | | | | | **45,577,508** | **45,577,508** |
| | | | | | | | | | | | |
| **GENERAL / UNCLASSIFIED** | | | | | | | | | | | |
| Reserve Fund (*) (Chair, Advisory Committee) | | | | 1,946,946 | | | | | | | 1,946,946 |
| Liability/Catastrophe Fund (Director of Finance) | | | | 253,669 | | | | | | | 253,669 |
| Housing Trust Fund (Planning & Community Develpoment Dir.) | | | | 251,363 | | | | | | | 251,363 |
| General Insurance (Town Administrator) | | 275,000 | | | | | | | | | 275,000 |
| Audit/Professional Services (Director of Finance) | | 130,000 | | | | | | | | | 130,000 |
| Contingency (Town Administrator) | | | | 15,000 | | | | | | | 15,000 |
| Out of State Travel (*) (Town Administrator) | | 3,000 | | | | | | | | | 3,000 |
| Printing of Warrants (Town Administrator) | | 10,000 | 10,000 | | | | | | | | 20,000 |
| MMA Dues (Town Administrator) | | | | 12,729 | | | | | | | 12,729 |
| Town Salary Reserve (*) (Director of Finance) | 1,775,000 | | | | | | | | | | 1,775,000 |
| Personnel Services Reserve (*) (Director of Finance) | 715,000 | | | | | | | | | | 715,000 |
| **Total General / Unclassified** | **2,490,000** | **418,000** | **10,000** | **2,479,707** | | | | | | | **5,397,707** |
| **TOTAL GENERAL APPROPRIATIONS** | **47,109,952** | **8,419,653** | **1,887,934** | **2,960,397** | **5,383,640** | **1,564,261** | **20,000** | **419,777** | **10,046,874** | **45,577,508** | **202,039,600** |

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

ARTICLE 8

**Amendment offered by Carol Caro, TMM-8**

MOVED: that the personnel services appropriation contained within the Library Department budget (line item 13) be increased by an amount of $8,000 for the purpose of keeping the Coolidge Corner branch library open on Sundays during the month of August 2012.

If the forgoing amendment is adopted,

MOVED: that the Employee Benefits appropriation relating to Group Health (line item 22b) that is currently in surplus by $354,783 be reduced by an amount of $8,000, thus keeping the overall FY 2013 budget in balance.

Explanation

Adding the $8,000 to the Library personnel services line will give the Library Trustees the ability to open the Coolidge branch all Sundays in the summer (June 17 – Sept 2, 2012). The Trustees are currently planning to provide Sunday hours in June and July but not in August. In the past Brookline libraries have not been open on Sundays during the summer months. Last year the Coolidge branch was open one Sunday as a test. Because of a favorable response from patrons, the Trustees are expanding summer hours. Brookline residents will appreciate library access on Sundays throughout the summer. (See attached petition signed by 70 Brookline residents.) Funding the summer Sundays at Coolidge program by drawing the $8000 from the current surplus in line item 22b, the Town will be able to expand library services without an adverse effect on any other services. . The budget would still be balanced with a $346,783 surplus.

Why all summer:

1. It will give Library Trustees and staff a strong basis for deciding whether summer Sunday hours should be provided in future years. Trustees will be able to compare June, July, and August to see the extent to which there is consistent demand throughout the summer.
2. For a portion of our residents who are religiously observant on Saturdays, Sundays are the only days family members can visit the library together. A full program of summer Sundays will give these families the ability to use the library as a family throughout the year.
3. For others the library is their only access to the Internet and Sunday afternoons are a popular time for people to catch up with their electronic communication with friends and families.
4. For some residents, the Library provides a welcome respite from summer heat. In August when we can expect some of our hottest weather, these residents will appreciate access to the Library on Sundays.

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## BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Selectmen will be taking up this amendment at its meeting prior to the commencement of Town Meeting.

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## ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
The Advisory Committee has had several conversations around the proposed Library budget and received some mixed signals. In its initial recommendation, the Committee supported $15K in funding to keep the Coolidge Corner Library branch open on Sundays during July and August – though a number of members question why the Library chose not to use funding from its endowment or from grants it currently has. The majority of members, though, felt that the value gained from this $15K investment was substantial for the community. Later, after hearing from the Library Board of Trustees, the Committee voted to fund only $7K for Sundays in July. The Trustees informed the Advisory Committee that they preferred to phase in summer hours more slowly and did not plan to open on Sundays in August. In deference to the Trustees and understanding that they did not plan to use the additional funds, the Committee reduced the original recommended appropriation.

DISCUSSION:
Town Meeting Member Carol Caro submitted an amendment to Town Meeting seeking restoration of the full $15K. This caused the Advisory Committee to revisit the issue. The Advisory Committee remained convinced there was merit in providing summer hours during both July and August. The Committee is fully aware that should Town Meeting appropriate the full $15K, the Library Trustees (an independent elected board) still may elect not to open the additional Sundays in August and, therefore, not use the full funding. However, the Committee felt it was better to provide the funding to the Library so that it would have the option, if it so chose, to provide the additional Sunday hours.

RECOMMENDATION:
By a vote of 10-7, the Advisory Committee recommends FAVORABLE ACTION on the Caro Amendment to increase the Library budget by $15K for Sunday hours in the summer. This amends the Advisory Committee's motion under Article 8.

# ARTICLE 8

## BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Board of Selectmen supports the Library Trustees. The question is whether additional funding should be provided to the Libraries out of the General Funds in order to keep the Coolidge Corner Branch Library open in August as well as June and July. The Board of Selectmen believes that the Library Trustees, who are elected to oversee and manage our Libraries for the benefit of the public, will gather information during the trial period and can decide whether to open on additional Sundays in August.

Should the Library Trustees find that "Summer Sundays" are a success in June and July (as we suspect will be the case), the Trustees would have more than sufficient funds to keep the Coolidge Corner branch open during August, without any additional appropriation. Unlike our other Town departments, the Library Trustees have independent resources which they control.

The Coolidge Corner Branch Library can be easily kept open on all summer Sundays, with no adverse impact on other Library services, provided that the Library Trustees put the available sources of funds to use.

- The Trustees have a $4.0 million Trust Fund.

- The Trustees also have an account with $180,000 in cash.

- The Libraries have over $150,000 in Special Funds that they control. Some of those funds are reserved for materials, but under Appropriate Condition (C) on Page 8-77 of the Combined Reports, the Trustees have discretion to transfer General Funds from materials and supplies to personnel, and replace those materials amounts from Special Funds.

- The Trustees have not drawn on the Trust Fund at all for several years. Their contributions to Library operations have been met from the cash account and from the annual contributions of supporters.

Therefore, the Board supports the Library budget, item #13 under Department Budgets, as contained in the original vote of the Advisory Committee found on pages 8-76 - 8-88.

ARTICLE 8

**Amendment offered by Karen Wenc, TMM-11**

MOVED: that item #61 (High School Auditorium Stage) be increased by $30,000 to $55,000; and

If the forgoing amendment is adopted,

MOVED: that item #50 (Old Burial Ground) be reduced by $30,000 to $250,000.

## ARTICLE 9

NINTH ARTICLE
Submitted by: Jonathan Davis, Town Meeting Member, Precinct 10 and Regina Frawley Town Meeting Member, Precinct 16

To see if the Town will amend the Town's By-Laws in the following manner:

By adding Article 3.22 immediately between Article 3.21 and Article 4.1, as follows:

ARTICLE 3.22
The Public's Right To Be Heard On Proposed Articles

Any committee as defined in section 1.1.4, before taking its first (or only) vote with respect to a proposed Article that is intended by its proponent for the Warrant, must hold a duly noticed public hearing with respect to the proposed Article, and the committee's permanent record must record that a duly noticed public hearing with respect to such proposed Article occurred before such first (or only) vote.

The duly noticed public hearing may occur on the same date as the vote but at an earlier time, or on an earlier date.

This Article shall not apply to the plenum of the Advisory Committee.

Or act on anything relative thereto.

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PETITIONER'S ARTICLE DESCRIPTION

This is a "Good Government" Article requiring Town Committees to hold at least one Public Hearing prior to voting on any proposed Warrant Article. It will give practical life to the public's Constitutional right to petition the government – in this case, on proposed Articles intended for Town Meeting which are deliberated by Committees.

For the purposes and scope of this By-Law, a "Public Hearing" is intended to provide an opportunity for interested persons to appear to express their views, pro or con, and/or to provide the Committee with written submissions.

The petitioners have observed a significant decline in the number of officially calendared opportunities for the public to speak on matters coming before Committees. Instead, the right to speak has been supplanted with a privilege to speak - a recent phenomenon, usually referenced in Town agendas as "Public Comment".

"Public Comment" means that if time allows, then, at the discretion of the Committee Chair, the public may be heard. Also, Committee Chairs may, in their discretion, arbitrarily impose restrictions like prior notification of intent to comment (thus bottling

up the flow of spontaneous ideas that might be stimulated by the Committee's deliberations), unreasonable time restrictions and limiting on the number of public speakers

The petitioners believe that eliminating "Public Hearings" on Town Meeting Warrant Articles is a narrowing of the Constitutional right of the public to petition their government. It also deprives Committees of ideas, sentiments, and even facts and recollections of Town history and precedents that might help Committees in their deliberations and the performance of their duties.

With the exception of the plenum of the Advisory Committee (more about that later) this Article is intended to apply to every "Committee" as defined in existing By-Laws sec. 1.1.4 – namely an "elected or appointed board, commission, council and trustees". (Hereafter, this Description will use the term "committee" although the coverage of sec. 1.1.4 is intended.)

This Article is limited to Committees' consideration of proposed Articles for a Warrant. The reasons for this limitation are as follows:

1 - The petitioners are aware that Committees might object that requiring opportunities for public comment on all matters coming before them might prove unwieldy. While the petitioners believe that the cumbersomeness of democracy is often one of its great strengths, nevertheless, the petitioners are trying to be sympathetic to the burdens placed on members of Committees. Therefore, at this time, the petitioners are restricting the scope of this Article to proposed Articles intended by their proponents for a Warrant. [A similar phrase, "intended for the Warrant", appears in existing By-Law sec. 2.1.4.]

Also, it should be noted that the Article requires only one calendared opportunity for public comment on each proposed Article being deliberated by a Committee. The Article does not prescribe the conduct of the public hearing, the length of time to be accorded each speaker from the public, or whether the public hearing should occur immediately or less proximately before the Committee votes on the proposed Article. These considerations are left, at least for now, to the good faith determination of the Committee or its chairperson.

2 – The positions taken by Committees with respect to proposed Articles affect Town Meeting's own deliberations. The petitioners believe that Committees' recommendations about proposed Articles may be enriched and made more cogent by calendared public input at the Committee level. Town Meeting, in turn, may benefit from this in its own deliberations. Long-time Town Meeting Members may well remember occasions on the floor of Town Meeting when unorthodox views surfaced during debates, often from unscheduled speakers speaking from the aisles, that changed the minds and votes of Town Meeting (and, hopefully, produced more thoughtful legislation).

The Article excludes the plenum of the Advisory Committee on the theory that, with twenty six members drawn from across the Town (some of whom may not even be Town Meeting members) there is a breadth of viewpoints and a breadth of contact points with the public so that views from the public are more likely than in the case of smaller

Committees to find their ways into deliberations of the plenum. Furthermore, Advisory Committee protocol requires its subcommittees to consider in detail proposed Articles, and requiring calendared public hearings before the subcommittees gives the public at least an indirect "bite at the apple" before the Advisory Committee. Also, the plenum of the Advisory Committee may, in its discretion, permit public comment.

It might be argued that the views of the public will not tell Committees anything that Committees do not already know. Merely to state this argument should be sufficient to cause its dismissal out of hand.

Some might argue that requiring public hearings will bog Committees down in discharging their responsibilities. The proponents are sensitive to this concern and, so, have limited the Article to consideration of proposed Articles intended for a Warrant.

The proponents hope that requiring at least one calendared public hearing prior to a Committee's vote on a proposed Town Meeting Warrant Article will enrich and assist the Committee's decision making, and offer members of the Public – perhaps even Town Meeting Members - the opportunity to express their views and influence the Committee's deliberations

Finally, and as previously mentioned, the proponents also believe that requiring at least one calendared public hearing as each Committee considers proposed Warrant Articles will vitalize and enhance the democratic principle and Constitutional right to petition the government.

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PETITIONERS' REVISED ARTICLE DESCRIPTION

This is a "Good Government" Article requiring Town Committees to hold at least one Public Hearing before voting on any Article that is included in a Warrant. It will give practical life to the public's Constitutional right to petition the government – in this case, on Articles when Town Committees are deliberating and are going to take voted positions on the Articles.

All elected and appointed Brookline Committees hold "public meetings" but not necessarily "Public Hearings". For the purposes and scope of this By-law, a "Public Hearing" is intended to provide an opportunity for interested persons to appear to express their views, pro or con, and/or to provide the Committee with written submissions.

The petitioners have observed a significant decline in the number of officially calendared opportunities for the public to speak on matters coming before Committees. Instead, the *right* to speak has been supplanted with a *privilege* to speak - a recent phenomenon, usually referenced in Town agendas as "Public Comment".

"Public Comment" means that *if* time allows, then, at the discretion of the Committee Chair, the public *may* be heard. Also, Committee Chairs may, in their discretion, arbitrarily impose restrictions like prior notification of intent to comment (thus bottling up the flow of spontaneous ideas that might be stimulated by the Committee's

deliberations), unreasonable time restrictions and unreasonable limitations on the number of public speakers

The petitioners believe that the current trend of eliminating "Public Hearings" from Committees' deliberations about Articles is a narrowing of the Constitutional *right* of the public to petition their government. It also deprives Committees of ideas, sentiments, and even facts and recollections of Town history and precedents that might help Committees in their deliberations and the performance of their duties.

The petitioners also believe that the current trend of eliminating "Public Hearings" contributes to the public's declining interest in Town government and declining participation in Town elections. If members of the public make the effort to attend a Committee meeting about an Article on the Warrant and find that they cannot speak to the Committee because the session is not a "Public Hearing", they may lose faith and lose interest in the process of Town government. On the other hand, assuring the public that anyone who makes the effort to attend a Committee session that is considering an Article will have a *guaranteed right* to speak to the Committee before it votes a position on the Article can be one step towards encouraging citizen interest and involvement in Town government.

With the exception of the plenum of the Advisory Committee (more about that later) this Article is intended to apply to every "Committee" as defined in existing By-law sec. 1.1.4 – namely an "elected or appointed board, commission, council and trustees". (Hereafter, this Description will use the term "committee" although the coverage of sec. 1.1.4 is intended.)

This Article is limited to Committees' consideration of Articles included in future Warrants. The reasons for this limitation are as follows:

1 - The petitioners are aware that Committees might object that requiring opportunities for public input on all matters coming before them might prove unwieldy. While the petitioners believe that the cumbersomeness of democracy is often one of its great strengths (and, incidentally, at least one comparable Town requires that <u>all</u> public meetings on <u>all</u> topics be Public Hearings), nevertheless, the petitioners are trying to be sympathetic to the burdens placed on members of Committees. Therefore, the petitioners are restricting the scope of this Article to Articles that are included in future Warrants and as to which Committees determine their positions on the Articles by taking a vote.

Also, it should be noted that Article 9 requires only one calendared Public Hearing for each Committee before it takes a vote on an Article included in a future Warrant. Article 9 does not prescribe the conduct of the Public Hearing, the length of time to be accorded each speaker from the public, or whether the Public Hearing should occur immediately or less proximately before the Committee votes on the future Article. These considerations are left to the good faith determination of the Committee or its chairperson.

2 – The positions taken by Committees with respect to Articles affect Town Meeting's own deliberations. The petitioners believe that Committees' recommendations about Articles included in future Warrants may be enriched and made more cogent by public

input at the Committee level. Town Meeting, in turn, may benefit from this in its own deliberations. Long-time Town Meeting Members may well remember occasions on the floor of Town Meeting when unorthodox views surfaced during debates, often from unscheduled speakers speaking from the aisles, that changed the minds and votes of Town Meeting (and, hopefully, produced more thoughtful legislation).

Article 9 excludes the plenum of the Advisory Committee on the theory that, with twenty six members drawn from across the Town (some of whom may not even be Town Meeting members) there is a breadth of viewpoints and a breadth of contact points with the public so that views from the public are more likely than in the case of smaller Committees to find their ways into deliberations of the plenum. Furthermore, Advisory Committee protocol requires its subcommittees to consider in detail Articles included in the Warrant, and calendared Public Hearings before the subcommittees give the public at least an indirect "bite at the apple" in the Advisory Committee forum. Also, the plenum of the Advisory Committee may, in its discretion, permit public comment.

Some might argue that the views of the public will not tell Committees anything that Committees do not already know. Merely to state this argument should be sufficient to cause its dismissal out of hand.

Some might argue that requiring Public Hearings will bog Committees down. The proponents are sensitive to this concern and, so, have limited this Article to Articles included in future Warrants before a Committee takes a vote.

Some might argue that requiring Committees of "experts" to hold Public Hearings during their public meetings on Warrant Articles might interfere with their expert deliberations. However, petitioners have identified at least one nearby Town that requires Public Hearings by its expert Board of Assessors (and not just on Warrant Articles). Also, petitioners believe that even Committees of experts should welcome input from the public they serve.

The proponents hope that requiring at least one calendared Public Hearing before a Committee votes on an Article included in a future Warrant will enrich and assist the Committee's decision making, and offer members of the Public – perhaps even Town Meeting Members - the opportunity to express their views and influence the Committee's deliberations.

Finally, and as previously mentioned, the proponents believe that requiring at least one calendared Public Hearing as each Committee considers, and before it takes a vote on, an Article will vitalize and enhance the democratic principle and Constitutional right to petition the government.

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## SELECTMEN'S RECOMMENDATION

Article 9 is a petitioned article that proposes to amend the Town's By-Laws by requiring any board/committee/commission to hold at least one Public Hearing prior to voting on

any article contained in a Warrant for Town Meeting. The Advisory Committee would be exempt from the requirement because of their well-established practice of having sub-committees hold public hearings on all warrant articles. The Selectmen agree with the petitioners that it is a "good government" article that attempts to increase citizen engagement; however, there are issues with the way the article is crafted that need further vetting.

The Town has approximately 60 different boards/commissions/committees that would be subjected to this by-law. Requiring all of these volunteer bodies to fall under the requirements of the proposal appears cumbersome and should be further reviewed. Another issue that can benefit from additional study is the actual structure of a public hearing. For example, since all interested meeting attendees can speak, what discretion does the chair have in limiting the amount of time for each speaker? Would the article have the unintended consequence of limiting "back-and-forth" exploration of issues? Some guidance as to procedures needs to be in place before mandated public hearings are required.

The Selectmen would like the Committee on Town Organization and Structure (CTO&S) to review these and other issues prior to this becoming a by-law. Further study by CTO&S by no means translates into this issue being "buried"; rather, it allows for further and more detailed contemplation of the issues surrounding this proposed new mandate. Brookline has a storied tradition of thoughtfully considering the ramifications of issues before taking final action, and this would be yet another example. Whenever there is a proposal that has a far-reaching impact on the bodies that comprise Brookline town government, a thorough review by CTO&S is sought. This should be no different. Therefore, the Board recommends the following motion by a vote of 5-0 taken on May 2, 2012:

VOTED: To refer Article 9 to the Committee on Town Organization and Structure (CTO&S).

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 9 has been submitted by citizen petition. It would require any Town committee (defined in section 1.1.4 of the Town by-laws to include "an elected or appointed board, commission, council and trustees") to hold at least one public hearing on a Warrant Article before it takes a vote on that Warrant Article. The vote need not be taken at the public hearing.

The petitioners are responding to what they see as a trend toward holding fewer public hearings on Warrant Articles. The Selectmen no longer hold a public hearing on every Warrant Article, but instead invite public comment at their meetings. The petitioners believe there is a general trend toward substituting public comment periods for public hearings.

Article 9 does not apply to the plenum of the Advisory Committee (i.e. the full Advisory Committee), because the subcommittees of the Advisory Committee hold public hearings on each Warrant Article.

DISCUSSION:
The case for Article 9 begins with the argument that holding public hearings is simply a matter of good government: it is intrinsically good to encourage citizen participation in the discussion of Warrant Articles. Not holding public hearings limits citizen participation. It sends the wrong message to the public and may even discourage citizens who otherwise would get involved in the political process.

Encouraging public input by holding public hearings also may enable Town Meeting to vote for more thoroughly vetted and (possibly) better crafted Warrant Articles. Although it is not always easy to measure the impact of public participation in the consideration of Warrant Articles, it is undeniable that a Warrant Article may be improved or that a more informed decision may be made as the result of public input. (As it turned out, some of the Advisory Committee subcommittee's amendments to Article 9 reflected public input at the subcommittee's hearing.)

There are several potential problems and disadvantages associated with Article 9. Most important, it is impossible to predict whether it will make the process of considering Warrant Articles more complicated and inefficient. If many members of the public wish to speak, a hearing may be very long or only a little time may be available for each speaker. Committees may respond to Article 9 by having one public hearing for multiple Warrant Articles. Some of the smaller and more specialized Town committees may find it difficult to organize and hold public hearings. Citizens who wish to speak on a Warrant Article may find it hard to monitor and appear at multiple public hearings held by various committees.

These potential disadvantages must be weighed against the benefits of a more open process that encourages public participation. Efficiency is not the most important goal of participatory and democratic government. In any case, the requirement that committees hold only one public hearing on each Warrant Article will make the process far less cumbersome than a requirement that a public hearing be held every time a committee meets to consider (or reconsider) a Warrant Article or an amendment. Moreover, the Article does not prevent committees from being flexible in how they hold and run public hearings. Given that there are no clear Massachusetts guidelines for how a public hearing should be conducted, the petitioners recognize that all participants must assume that the process will be handled with good faith. Article 9 does not attempt to micromanage how public hearings should be conducted.

Another potential concern is that Article 9 provides no mechanism for enforcement if a committee votes on a Warrant Article without holding a public hearing. Town Meeting could decide to refer the Warrant Article back to that committee, but Town Meeting might choose to ignore the requirement of the Article 9 if, for example, the Warrant Article under consideration has ample support or there is an urgent need for action.

Nevertheless, amending the Town by-laws makes it more likely that committees will hold public hearings than, for example, a resolution that urges them to do so.

The Advisory Committee considered and ultimately voted for favorable action on a motion under Article 9 that reflected amendments made during the Advisory Committee subcommittee's public hearing on the Article, as well as suggestions from Town Counsel. These amendments were endorsed by the petitioners and incorporated into the petitioners' motion. The subcommittee was particularly concerned that Article 9, as submitted, would apply to any "proposed" Articles "intended" for the Warrant. This language implied that the public hearing requirement would apply to votes taken on early drafts of potential Articles before they were placed on the Warrant. Such a requirement would be burdensome to committees that sometimes consider "trial balloons" or preliminary drafts of Warrant Articles. It also would be difficult to decide what constituted a "proposed" Article or whether such an Article was "intended" to be submitted for the Warrant. With some public input, the subcommittee amended Article 9 to make clear that only when an Article is "on the Warrant" is there a requirement that there be a public hearing before a vote is taken.

Other amendments that are included in Advisory Committee's motion reflected the petitioner's desire to clarify the by-law amendment and to leave no doubt that it did not apply to adjudicatory public hearings on matters other than Warrant Articles (e.g. liquor licenses or personnel questions).

The Advisory Committee was divided on Article 9 and ultimately voted for favorable action by a narrow margin. Several Advisory Committee members had reservations about the Article and preferred alternative approaches. There was considerable support for an amendment that would enable committees to satisfy the requirement of a public hearing by having a subcommittee hold such a hearing and then report to the full committee. That amendment was defeated by a vote of 8–9. Arguments against it included the difficulty of defining "subcommittee" and a preference for having full committees hold public hearings.

The Advisory Committee considered a motion to refer Article 9 to the Committee on Town Organization and Structure (CTO&S) and to ask CTO&S to report before the Fall 2012 Town Meeting. That motion reflected a belief that CTO&S should obtain input from the committees that would be subject to Article 9, assess the consequences of the Article, and consider whether only those committees that offer recommendations and proposals to Town Meeting should be required to hold public hearings on Warrant Articles. The motion to refer to CTO&S failed by a vote of 5–11–1.

There was little support for amending Article 9 so that it would apply only to a short list of committees that often vote on Warrant Articles and then make recommendations to Town Meeting. Such a list might exclude some committees that occasionally vote on Warrant Articles that fall within their purview.

The Advisory Committee broadly endorses the principle of maximizing public participation that lies at the heart of Article 9. A majority supports pursuing this goal by

requiring Town committees to hold at least one public hearing before taking a vote on a Warrant Article.

RECOMMENDATION:
By a vote of 9–8–1, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town By-laws are hereby amended by adding a new Article 3.22 immediately between Article 3.21 and Article 4.1, as follows:

ARTICLE 3.22
The Public's Right To Be Heard On Warrant Articles

Any committee as defined in section 1.1.4, before taking its first (or only) vote with respect to an Article on the Warrant, must hold a duly noticed non-adjudicatory public hearing with respect to the Article, and the committee's permanent record must record that a duly noticed non-adjudicatory public hearing with respect to such Article occurred before such first (or only) vote.

Due notice of the public hearing shall be satisfied if it occurs in the meeting notice required by the Open Meeting Law (now G.L. c. 30A, secs. 18 et seq.) and By-law 3.21.3(a).

The vote may take place at any time or date after the completion of the duly noticed public hearing.

This Article shall not apply to the plenum of the Advisory Committee.

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LIST OF TOWN BOARD/COMMITTEES/COMMISSIONS

*STANDING TOWN BOARDS/COMMISSIONS/COMMITTEES*
Advisory Committee
Advisory Council of Public Health
Audit Committee
Board of Assessors
Board of Examiners
Board of Selectmen
Brookline Access Television
Brookline Commission for the Arts
Brookline Commission For Women
Building Commission
Broadband Monitoring Committee
Campaigns Committee

Celebrations Committee
Climate Action Committee
Commission For The Disabled
Committee on Town Organization & Structure
Conservation Commission
Council On Aging
Economic Development Advisory Board
Housing Advisory Board
Human Relations/Youth Resources
Human Resources Board
Information Technology Advisory Committee
Library Trustees
Naming Committee
Park and Recreation Commission
Planning Board
Preservation Commission
Registrars of Voters
Retirement Board
Solid Waste Advisory Committee
Town/School Labor Advisory Committee
Town/School Partnership Committee
Transportation Board
Tree Planting Committee
Trustees of Walnut Hills Cemetery
Zoning Board of Appeals

*AD-HOC SELECTMEN COMMITTEES*
Bicycle Sharing Committee
CDBG Advisory Committee
Critical Infrastructure Monitoring System Oversight Committee
Davis Path Special District Zoning Study Committee
Dukakis Recognition Committee
Emerald Necklace Bicycle and Pedestrian Crossings Committee
Fiscal Policy Review Committee
Gateway East Citizen's Advisory Committee
Hancock Village Planning Committee
Licensing Review Committee
MLK Celebration Committee
Olmsted Hill Construction Oversight Committee
Parking Committee
Parking Meter Task Force
Redistricting Committee
Small Commercial Exemption Study Committee
Waldo/Durgin St. Committee
Zoning By-Law Committee

*MODERATOR'S COMMITTEES CREATED BY A VOTE OF TOWN MEETING*
Moderator's Ad Hoc Committee on Electronic Voting
Moderator's Committee on Parking
Moderator's Committee on Waste Disposal

*MISC*
Heath School Building Committee
Runkle School Building Committee

***XXX***

ARTICLE 9

**Amendment offered by Stanley Spiegel, TMM-2**

MOVED: To amend the Advisory Committee motion under Article 9 by adding the following language at the end of said motion:

> No action taken by Town Meeting shall be invalid as a result of the failure by a committee subject to this by-law to comply with any of its provisions.

Explanation
While committees subject to the provisions of this by-law are expected to comply with its provisions and hold duly noticed public hearings before voting on any warrant article, it's important to explicitly state that any failure by such a committee to do so cannot be taken as a legal justification for challenging the validity of any Town Meeting action taken under said article.

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BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Selectmen will be taking up this amendment at its meeting prior to the commencement of Town Meeting.

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ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

DISCUSSION:
The Advisory Committee considered the amendment to Article 9 offered by Town Meeting Member Stanley Spiegel. The amendment serves as a sort of severability clause to protect actions taken by Town Meeting by ensuring that should any board, committee or commission fail to meet the requirements of Article 9 it will not be grounds to negate a vote of Town Meeting. We have used a similar approach with other bylaws and believe this will provide a layer of support to Town Meeting actions.

RECOMMENDATION:
By a vote of 15-1-1, the Advisory Committee recommends FAVORABLE ACTION on this amendment.

## ARTICLE 10

### TENTH ARTICLE

Submitted by: Preservation Commission

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:

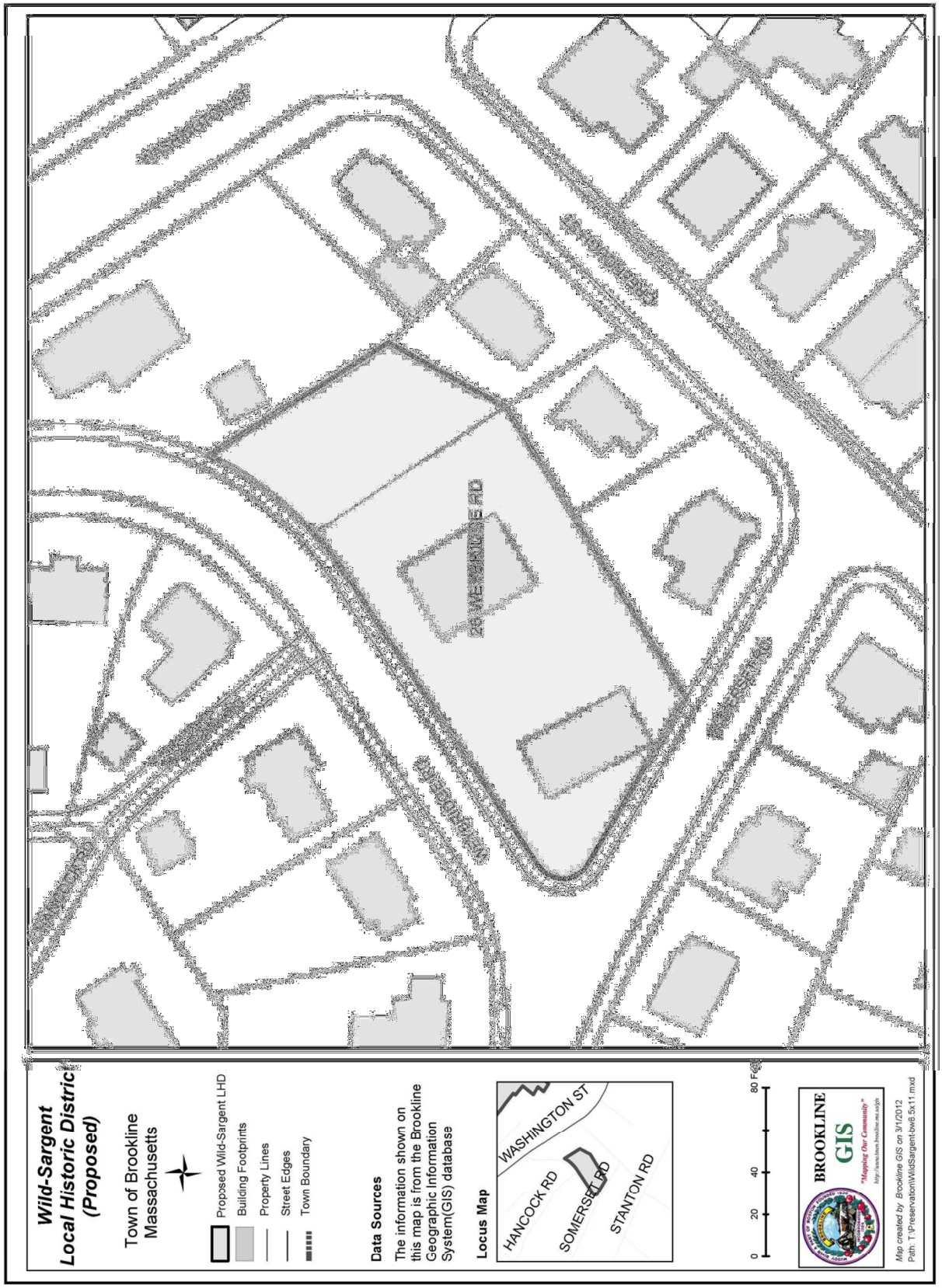
By deleting Section 5.6.3. (g) and substituting new sections 3 (g) and 3 (h) therefore:

"(g) Wild-Sargent Local Historic District

There is hereby established an Historic District, to be entitled the 'Wild-Sargent Local Historic District,' the boundaries of which shall be shown on the map entitled 'Wild-Sargent Local 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.

(h) 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.

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PETITIONER'S ARTICLE DESCRIPTION

At a meeting on January 10, 2012, the Preservation Commission received a request from the owner of the property at 26 Weybridge Road. The Commission voted to have the owner prepare a preliminary study report on the establishment of a new local historic district, as required by M.G.L. Chapter 40C.

A preliminary study report was prepared by residents Ken Liss (President of the Brookline Historical Society) and Norah Mazar (Building Conservator) and edited by the Brookline Preservation Commission staff.

Based on the conclusions in the report, the Brookline Preservation Commission voted at its February 14, 2012 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 Commission also voted unanimously to submit a warrant article to Town Meeting to establish the new local district.

There are very few extant houses and carriage houses that date to the early nineteenth century remaining in Brookline, a densely populated town that saw waves of demolition and rebuilding with the advent of regular trolley service to and from Boston, with whom it shares a border. The Wild-Sargent house and carriage house are the only remaining Federal/Greek Revival style buildings in the area. The next oldest property in its vicinity is the Candler Cottage at 447 Washington Street, a c. 1850 Gothic Revival house and carriage house designed by Richard Bond. Three historic houses on Aspinwall Hill were lost to demolition: the Federal-era homestead of the family for whom the hill was named, the Tappan House (c. 1822) and the Bowditch House (c. 1867).

This 26 Weybridge Road property has been characterized as an oasis of open space in the midst of a densely settled neighborhood of single family homes and apartment buildings. The surrounding streets of Blake Park were laid out and developed into small single family house lots in the 1920s and 1930s. The proposed Local Historic District would be a valuable benefit to the community. The loss of this ensemble and the open space around it, located in a very visible triangle of land at the junction of Somerset and Weybridge Roads, would negatively impact the integrity of the entire Aspinwall Hill neighborhood and the quality of life for its residents.

There will be a Public Hearing on the matter on or after April 27, 2012, as per M.G.L. Chapter 40C, after which time the final study report will be completed and reviewed for acceptance.

The owners also will ask the Town to accept a Preservation Restriction on the property in order to preserve the location and setting of the buildings and to conserve the open space around them for the benefit of the community.

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 six 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; Chestnut Hill North, established in 2005 and Lawrence, established in 2011.

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## PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Preservation Commission. The purpose of this amendment is to create a new local historic district (LHD) encompassing the house and carriage barn at 26 Weybridge Road. The property is a combination of five lots (only two are shown on the Assessor's Map) located at the intersection of Weybridge and Somerset Roads. The house and carriage barn were built around 1822 for Dr. Charles Wild, and it has since been remodeled and redesigned. The property has been owned by the Sargent family since the 1920s. A preliminary study report on the property is available from the Preservation Division in the Department of Planning and Community Development.

The Wild-Sargent LHD would have the same regulations as other LHDs in Brookline, requiring all proposed improvements or construction be reviewed and approved by the Preservation Commission prior to issuance of a building permit. In conjunction with this proposed LHD, a separate warrant article, #11, would place a preservation restriction on the property. The owner is requesting the preservation restriction in order to limit the site's future development; since new structures are allowed to be built in an LHD with the approval of the Preservation Commission, an LHD alone would not prevent all future development. The preservation restriction would prohibit new structures from being built on the property but for two exceptions: a new detached garage to serve the main house and a fence or vegetation barrier between the house and carriage barn that is not higher than 42 inches. The combination of the preservation restriction and the new LHD effectively limits the development of the property, and ensures that any new construction be reviewed and approved by the Preservation Commission.

The property owner desires the LHD to help preserve the property while at the same time allowing for a future transfer of ownership. The proposed LHD, in concert with the proposed preservation restriction, would effectively preserve many of the historically significant features of the buildings and site, and ensure that much of the open space on the lot remains undeveloped. The Planning Board realizes this would be the smallest LHD in Brookline, and somewhat unconventional, but does not see any drawback from its creation; instead, preservation of the structures and open space would present a benefit to the neighborhood.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 10 as submitted.

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## SELECTMEN'S RECOMMENDATION

Article 10 was submitted by the Preservation Commission and calls for the establishment of a single-property Local Historic District (LHD) at 26 Weybridge Road. If approved, it would be the Town's seventh LHD. As detailed in the Preservation Commission's report above, the property is historically significant due to the fact that the Wild-Sargent house and carriage house are the only remaining Federal/Greek Revival style buildings in the area. This property has been characterized as an oasis of open space in the midst of a densely settled neighborhood of single-family homes and apartment buildings. The surrounding streets of Blake Park were laid out and developed into small single-family house lots in the 1920's and 1930's. The loss of this ensemble and the open space around it, located in a very visible triangle of land at the junction of Somerset and Weybridge Roads, would negatively impact the integrity of the entire Aspinwall Hill neighborhood and the quality of life for its residents.

The Selectmen support the Preservation Commission's recommendation to save this historically significant property by creating a single-property LHD. By a vote of 4-0 taken on April 17, 2012, the Board recommends FAVORABLE ACTION on the following motion:

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:

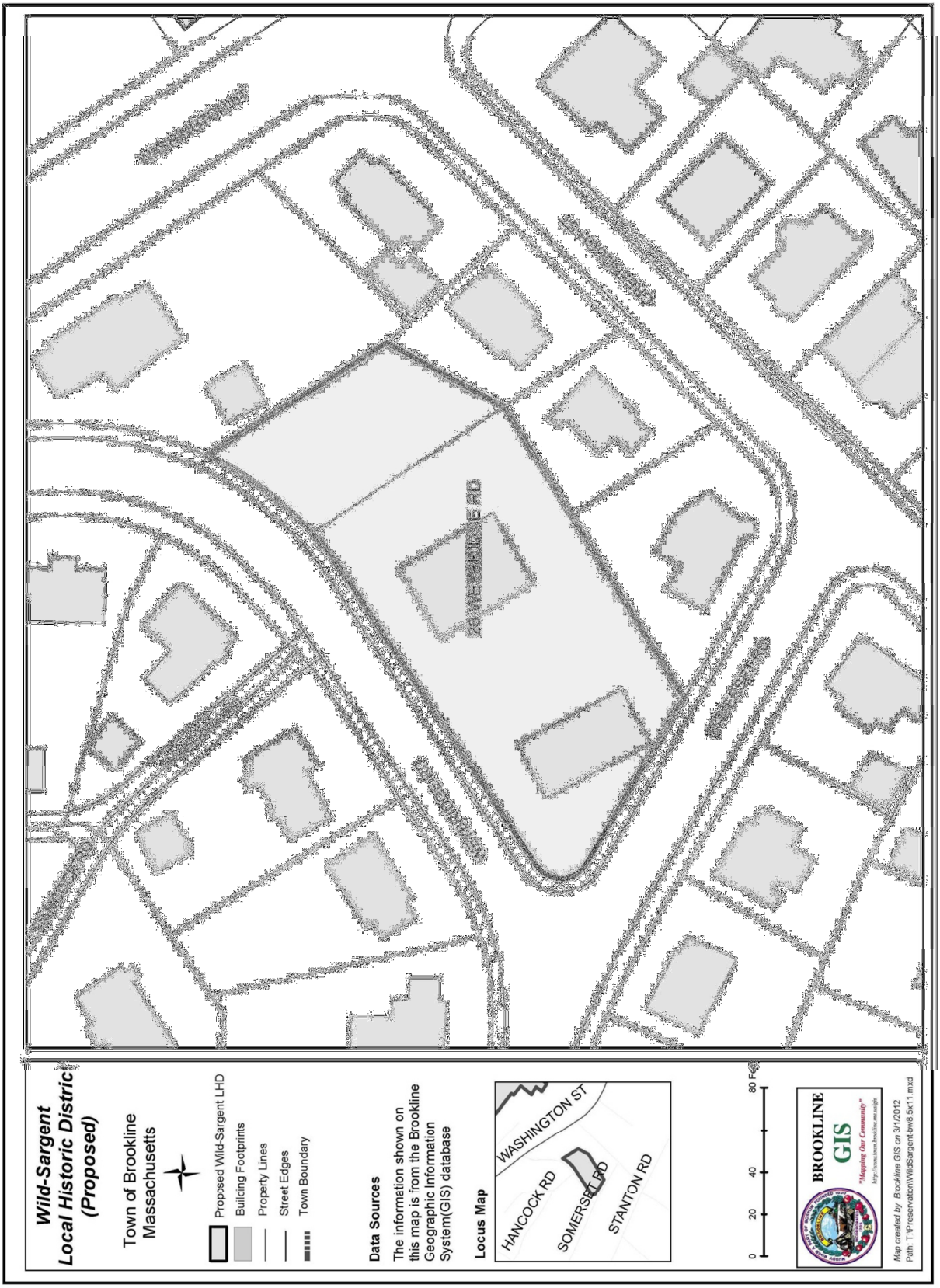
By deleting Section 5.6.3. (g) and substituting new sections 3 (g) and 3 (h) therefore:

"(g) Wild-Sargent Local Historic District

There is hereby established an Historic District, to be entitled the 'Wild-Sargent Local Historic District,' the boundaries of which shall be shown on the map entitled 'Wild-Sargent Local 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.

(h) 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."


Wild-Sargent
Local Historic Distric
(Proposed)
Town of Brookline
Massachusetts
Proposed Wild-Sargent LHD
Building Footprints
Property Lines
Street Edges
Town Boundary
Data Sources
The information shown on
this map is from the Brookline
Geographic Information
System(GIS) database
Locus Map
WASHINGTON ST
HANCOCK RD
SOMERSET RD
STANTON RD
0
20
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80 Fe
BROOKLINE
GIS
"Mapping Our Community"
http://www.lines.brookline.ma.us/gis
Map created by Brookline GIS on 3/1/2012
Path: T:\PreservationWildSargent-bw8.5x11.mxd

**ROLL CALL VOTE:**
Favorable Action
DeWitt
Daly
Benka
Goldstein

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ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 10 proposes an amendment to Article 5.6 of the Town's By-laws to create the Wild-Sargent Local Historic District (LHD) on the lower part of Aspinwall Hill. A 2/3 vote of Town Meeting is required for passage. The proposed district would encompass two lots on the south side of Weybridge Road; both are under single ownership. One lot includes 26 Weybridge Road, a c. 1822 house and an adjacent carriage barn; the other lot is undeveloped. Taken together, the parcels total over one-half acre.

The only extant pre-1850 house on Aspinwall Hill, 26 Weybridge Road exhibits a number of different architectural styles – Classical Revival, Italianate, and Colonial/Federal Revival – which reflect the evolution of the house and stylistic preferences over the past 190 years. The 1920's redesign of the house coincided with design and functional changes to the carriage house, when two large doors were cut into a wall of that structure and a concrete floor was poured in order to accommodate automobiles.

Home to Dr. Charles Wild, the Town's principal physician in the 1820s, and his son Dr. Edward Augustus Wild, an officer in the Civil War, abolitionist, and advisor to Colonel Shaw in his selection of officers for the 54th Massachusetts Regiment, the property came into the hands of the Sargent family in the 1920s. Described as "an oasis of open space in the midst of a densely settled neighborhood of single family homes and apartment buildings," 26 Weybridge Road is a rarity in Brookline: an early 19th century house with a surviving carriage barn.

DISCUSSION:
If approved, the Wild-Sargent Historic District would become the Town's seventh LHD. As a result, the existing structures and lots would be subject to the provisions of Article 5.6, meaning that requests for demolition and/or alterations and new construction visible from a public way would be subject to the review and approval of the Preservation Commission. In Brookline, there is no mechanism other than a local historic district to prevent demolition or inappropriate alterations; National and State Register of Historic Places status provide limited protection for a property (or neighborhood) and only if federal or state funds or permits are involved.

The current owner has committed to preserving the property for future generations to enjoy, and widespread support for this goal was evidenced by several dozen neighbors speaking in favor of protecting the structures and open space of 26 Weybridge Road at a Preservation Commission meeting in January 2012. In addition, over 40 Aspinwall Hill neighbors attended a Preservation Commission site visit and expressed their appreciation of the property and its intactness.

During the Advisory Committee's discussion of Article 10, two issues were raised: whether a single property could constitute a district, and the appropriateness of LHD designation to preserve the siting of the buildings. In response, it was noted that under M.G.L Ch.40C, single building districts were permissible and indeed, some municipalities such as Somerville had such districts. Moreover, some Advisory Committee members recalled that a number of years ago, a group of neighbors supported making St Aidan's Church on Freeman Street a single-building district.

With regard to the suitability of using LHD designation to protect a historic setting, two other possible methods to protect such open space, Neighborhood Conservation District (NCD) designation or the creation of a conservation easement, are not being pursued in this instance. The Town is currently awaiting the decision of the Attorney General's office as to its authority to establish Neighborhood Conservation Districts. Regarding a conservation easement, according to the owner of 26 Weybridge Road, the Conservation Administrator has determined that the property does not meet conservation easement criteria. Article 11, however, does propose a preservation restriction to provide further protection for the properties.

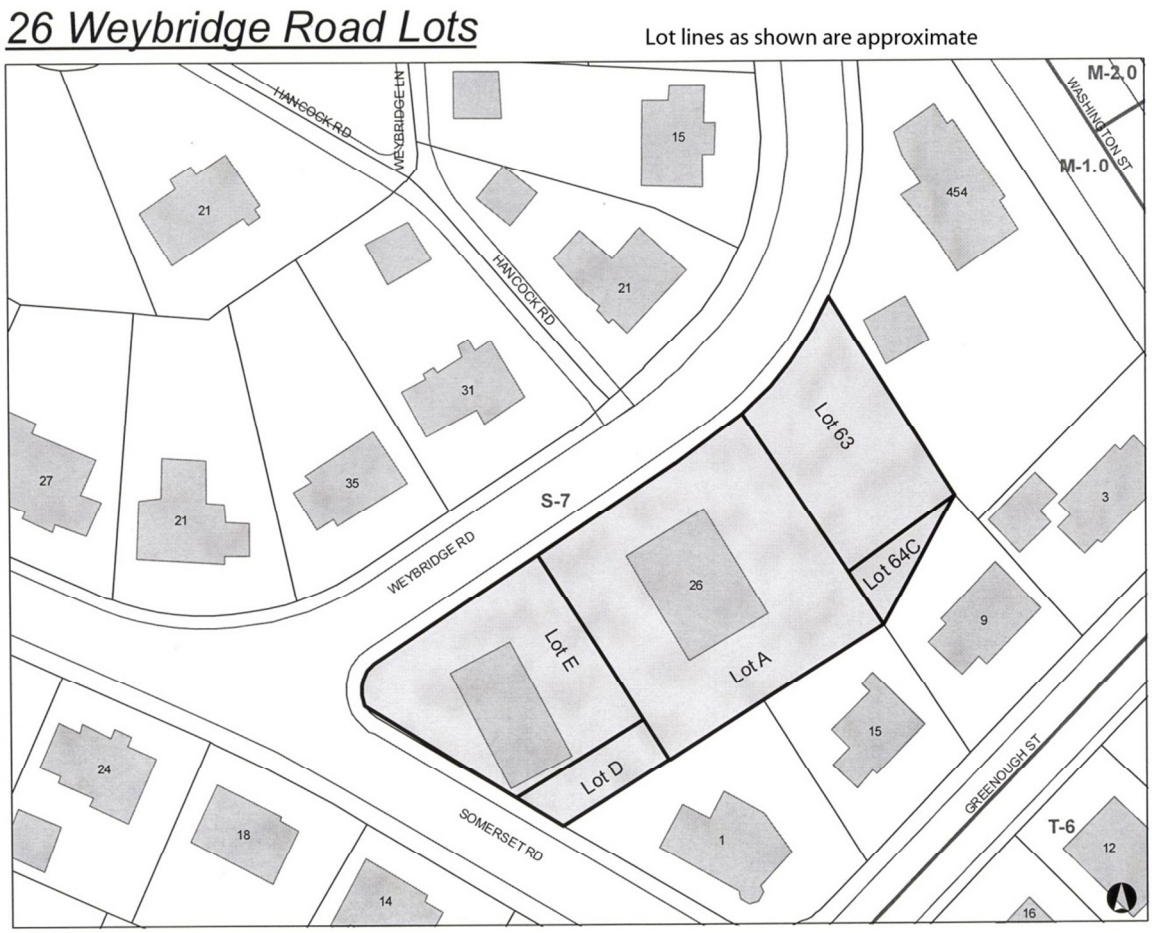
RECOMMENDATION:
By a vote of 18-2-1, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

***XXX***

ARTICLE 11

ELEVENTH ARTICLE
Submitted by: Preservation Commission

To see if the Town will authorize and empower the Board of Selectmen to accept a preservation restriction in substantially the same form as provided in the explanation section below, on property located at 26 Weybridge Road and shown as Parcels 02-03 and 04 in Block 207 on Sheet 41 of the Town's 2010 Assessors Atlas, consisting of Lots A, D, E, 63 and 64C as shown on the accompanying map.




or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

At a meeting on February 14, 2012, the Preservation Commission received a request from the Jane Culver Sargent Trust of 1998 to accept a preservation restriction on the property

currently owned by it at 26 Weybridge Road. The Commission voted unanimously to recommend that the town vote to accept the restriction at the Spring 2012 Town Meeting.

At the same meeting the commission also voted to recommend the establishment of a Local Historic District encompassing the same 26 Weybridge Road property owned by the trust, and consisting of five lots containing two buildings, a main house and a carriage house, both dating to around 1822. The proposed district would be called the Wild-Sargent Local Historic District after the two families who owned the property for the most extended periods of time.

The Sargent family and Mr. Keith Hughes, trustee for the Jane Culver Sargent Trust of 1998, are requesting acceptance of the Preservation Restriction in order to better safeguard the location and setting of the historic buildings on the property. They wish to ensure that the sense of open space and the sightlines from the street onto the property are not obstructed or reduced by future construction or subdivision. Their intentions are to maintain as much of the historic character of the landscape and buildings as possible for the benefit of the community while at the same time allowing for future use and adaptation of the property.

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DEED OF PRESERVATION RESTRICTION

Whereas, the property described herein is a portion of an historically significant estate originally constructed around 1822, said property having a main house and a carriage house;

Whereas the purpose of this restriction is to permanently prevent subdividing and building on the property in a manner that would detract from the historic character of the property; and

Whereas, in conjunction with the grant of this Deed of Preservation Restriction, the subject property has been made a Local Historic District pursuant to M.G.L. c. 40C, to be known as the "Wild-Sargent Local Historic District," and said designation provides for review of any exterior changes to the property visible from a public way, park or body of water in accordance with M.G.L. c. 40C and the Town of Brookline's Design Guidelines for Local Historic Districts, as these may be amended from time to time,

NOW THEREFORE, I, KEITH L. HUGHES, of Cambridge, Massachusetts, as I am Trustee of THE JANE CULVER SARGENT TRUST OF 1998, under an Indenture of Trust dated April 30, 1998, and filed in the Registry District of Norfolk County as Document No. 1061754, in accordance with the wishes of JANE CULVER SARGENT, as set forth in Article III of said trust, and by every other power, hereby grant to THE TOWN OF BROOKLINE, MASSACHUSETTS, a municipal corporation, Town Hall, 333 Washington Street, Brookline, Massachusetts 02445, for nominal consideration of one dollar ($1.00) paid, a preservation restriction in accordance with Sections 31 and 32 of Chapter 184 of the General Laws of Massachusetts, in gross and in perpetuity, over that land, situated in Brookline, Norfolk County, Massachusetts, now known as 26 Weybridge Road, and being shown as:

Lots A, D and E on Land Court Plan 10876B a copy of a portion of which is filed the Norfolk Registry District with Certificate No. 8690 Book 44; Lot 63 on Land Court Plan 8628C, a copy of a portion of which is filed the Norfolk Registry District with Certificate No. 8155 Book 41; and Lot 64C on Land Court Plan 8628L, a copy of a portion of which is filed the Norfolk Registry District with Certificate No. 8839 Book 45. For Grantor's title see Certificate of Title No. 170002.

The terms of the preservation restriction are as follows:

1. The carriage house located on Lot E may be converted for residential use and sold, together with all or part of Lots D and E, as may be permitted by applicable zoning. No other structures may be constructed on Lots D and E.
2. Any boundary fence or vegetation barrier which may be installed to separate the lot containing the carriage house from the main residence on Lot A shall not exceed forty-two (42) inches in height.
3. Lots A, 63 and 64C, and any portion of Lots D and E which might be retained from any sale of the carriage house, shall remain in common ownership, and no residential structure in addition to the main residence on Lot A may be constructed thereon. One garage for the storage of no more than two vehicles, and not exceeding one story in height, may be constructed on the combined area of Lots A, 63 and 64C, as may be permitted by applicable zoning. No other structures may be constructed on said lots.

WITNESS my hand and seal, as Trustee as aforesaid this day of , 2012.

_____
Keith L. Hughes, Trustee
as aforesaid

COMMONWEALTH OF MASSACHUSETTS

County ,2012

Before me personally appeared KEITH L. HUGHES known to me by ,
and acknowledged the foregoing to be his free act and deed, as Trustee as aforesaid.

_____
Notary Public
My commission expires:

***ACCEPTANCE AND APPROVAL BY SELECTMEN***
**FOR TOWN OF BROOKLINE (GRANTEE)**

We, the undersigned, being a majority of the Selectmen of the Town of Brookline, Massachusetts, hereby certify that at a meeting duly held on , 2012, the Selectmen voted to accept and approve the foregoing Preservation Restriction to the Town of Brookline, pursuant to M. G. L. Chapter 40C, M.G. L. Chapter 184, Sections 31-33, and the by-laws of the Town of Brookline.

Selectmen:

_____

_____

_____

_____

_____

COMMONWEALTH OF MASSACHUSETTS

County of Norfolk ss. , 2012

On this , day of 2012, before me, the undersigned notary public, personally appeared _____
_____
_____ Selectmen of the Brookline Board of Selectmen, proved to me through satisfactory evidence of identification, which was/were [type of evidence] _____, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily, in such capacity, for its stated purpose.

_____
NOTARY PUBLIC
Name (Print):
My Commission expires:

**APPROVAL BY THE MASSACHUSETTS HISTORICAL COMMISSION**
**COMMONWEALTH OF MASSACHUSETTS**

The undersigned hereby certifies that the foregoing Preservation Restriction to the Town of Brookline, Massachusetts, has been approved by the Massachusetts Historical Commission in the public interest pursuant to M.G.L., Chapter 184, Section 32. Approval of this Preservation Restriction by the Massachusetts Historical Commission is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Property, and any such pre-existing rights of the public, if any, are not affected by the granting of this Preservation Restriction.

Date: _____ By:_____

Print:_____
Acting Executive Director
and Clerk, Duly Authorized
Massachusetts Historical
Commission

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk, ss. , 2012

On this , day of 2012, before me, the undersigned notary public, personally appeared _____, acting for the Massachusetts Historical Commission, Commonwealth of Massachusetts, proved to me through satisfactory evidence of identification, which was/were [type of evidence] _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she/he signed it voluntarily, in such capacity, for its stated purpose.

_____
NOTARY PUBLIC
Name (Print):
My Commission expires:

_____

_____
SELECTMEN'S RECOMMENDATION

Article 11 is a petitioned article submitted by Preservation Commission that would authorize the Board of Selectmen to accept a preservation restriction on the property located at 26 Weybridge Road, the same property that is the subject of Article 10. The purpose of the preservation restriction is to safeguard the location and setting of the historic buildings on the property and to ensure that the sense of open space and the sightlines from the street onto the property are not obstructed or reduced by future

construction or subdivision. In preserving open space, the restriction would add a layer of protection to that provided by Article 10.

The Selectmen greatly appreciate the efforts of the family to preserve this property and the remarkable gift they are making to the community. The Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 17, 2012, on the motion offered by the Advisory Committee.

**ROLL CALL VOTE:**
Favorable Action
DeWitt
Daly
Benka
Goldstein

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ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 11 has been submitted by the Preservation Commission at the request of the Trustee of the Jane Culver Sargent Trust and members of the Sargent family. It asks Town Meeting to authorize and empower the Board of Selectmen to accept a preservation restriction on 26 Weybridge Road, specifically the parcels identified in Block 207 on the 2010 Assessors Map as 02-03 and 04. Although these parcels and their buildings would receive protection from demolition and inappropriate alterations through Local Historic District (LHD) status with the approval of Article 10, the owners of the property have explicitly expressed the wish to use a preservation restriction to further ensure that the setting of the c. 1822 house and carriage barn be preserved, that the ownership of the house and the undeveloped front lawn in front of it will remain under one entity, and that the open, spacious, rural-like character of the site will be protected.

If accepted by the Town, the restrictions on the property would include:

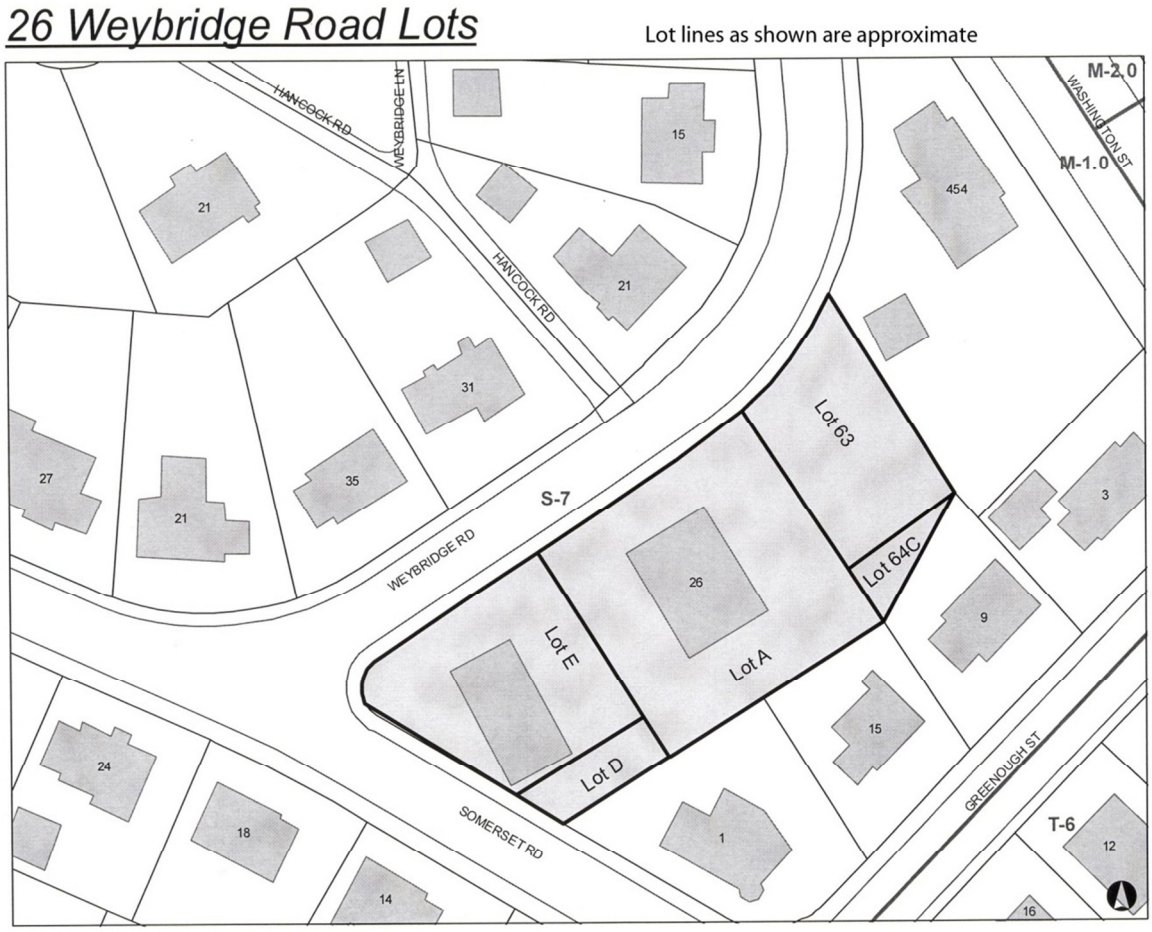
1) Only one subdivision of the property — the Carriage Barn (presumably converted for residential use) could be sub-divided from the main lot.
2) Only one garage for no more than two vehicles and no taller than one story can be constructed on the parcel with the existing house or the adjoining undeveloped lots
3) No new construction on the parcel with the existing carriage barn or the adjoining lot D
4) No boundary fence or vegetative barrier more than 42 inches between the carriage house and main house
5) No additional residential structure on the parcel with the existing house

DISCUSSION:
The intent of Articles 10 and 11 is to realize the Sargent family's "deep-seated interest in protecting [its] property in Brookline for the benefit of the community". If the Wild-Sargent LHD is approved by Town Meeting, the Preservation Commission will have the authority to prevent demolition or inappropriate alterations to the house and carriage barn at 26 Weybridge Road. However, the owners of the property recognize that such protection is not guaranteed and furthermore, doesn't preclude the subdivision for residential development of the principal open space of the property. The owners have stated that they very much want to preserve "this little piece of Brookline history." As Nelia Sargent has written, "The Sargent sisters unanimously wish to protect the 1822 open rural character of this property and the structures held by our family for the past eighty seven years." Because the front yard of the property is developable under existing zoning, the provisions of the restriction are particularly important.

The Deed of Preservation Restriction, included in the explanation for Article 11, makes clear that the intent of the restrictions is to impose conditions in perpetuity. It uses the words "permanently prevent" in the first Whereas Clause and "in perpetuity" in the second Whereas Clause. However, under MGL Ch 184, Sections 31-33, in order for a preservation easement to be perpetual, it must be approved by the Massachusetts Historical Commission (MHC). As currently drafted, the restriction is not acceptable to the MHC, and although the State Commission has suggested additional language that would meet Ch. 184 criteria, that language, being more restrictive, exceeds the scope of the original article. Consequently, if approved by Town Meeting, the conditions of the Restriction would apparently be enforceable for 30 years.

RECOMMENDATION:
Town Counsel's office has advised that, while this is a grey area of law, it would be prudent if Town Meeting authorized the Board of Selectmen to accept the easement, and that this authorization would be accomplished with a simple majority vote. Accordingly, the Advisory Committee, by a vote of 17-1, recommends FAVORABLE ACTION on the following:

VOTED: That the Town authorize and empower the Board of Selectmen to accept a preservation restriction in substantially the same form as provided in the explanation section below, on property located at 26 Weybridge Road and shown as Parcels 02-03 and 04 in Block 207 on Sheet 41 of the Town's 2010 Assessors Atlas, consisting of Lots A, D, E, 63 and 64C as shown on the accompanying map.


26 Weybridge Road Lots
Lot lines as shown are approximate
HANCOCK RD
WEYBRIDGE LN
HANCOCK RD
WEYBRIDGE RD
SOMERSET RD
GREENOUGH ST
WASHINGTON ST
M-2.0
M-1.0
S-7
T-6
Lot 63
Lot 64C
Lot A
Lot E
Lot D
15
21
21
454
31
27
21
35
3
26
9
15
24
18
1
12
14
16

***XXX***

# ARTICLE 11

Both the Board of Selectmen and the Advisory Committee have amended their vote contained in the Combined Reports under Article 11, which is found on page 11-6. By a vote of 5-0 taken on May 15, 2012, the Selectmen recommend FAVORABLE ACTION on the following motion:

VOTED: That the Town authorize and empower the Board of Selectmen to accept, **in substantially the form of the deed set forth on pages 11- 2 to 11- 5 of the Combined Reports**, the Deed of Preservation Restriction on the property located at 26 Weybridge Road and shown as Parcels 02-03 and 04 in Block 207 on Sheet 41 of the Town's 2010 assessors Atlas, consisting of Lots A, D, E 63, and 64C as shown on the **map on page 11-1 of the Combined Reports**, with the understanding that the terms of the Restriction will extend for a thirty-year period.

## ARTICLE 12

### TWELFTH ARTICLE

Submitted by: Eric Dumas

To see if the Town will amend Article 8.23.1 (d.) of the General By-laws, Tobacco Control, definition of Minor, by deleting the word "eighteen" and replacing it with the word "nineteen".

### PETITIONER'S ARTICLE DESCRIPTION

Tobacco use is a leading cause of preventable morbidity and mortality in the United States; approximately 443,000 people die prematurely each year and another 8.6 million live with a serious illness due to tobacco use.[1] The negative consequences of using tobacco products include but are not limited to: cancers, respiratory and cardiac diseases, negative birth outcomes, and eye, nose, and throat irritation.

Despite current laws that prohibit the sale of tobacco products to minors, youth smoking remains a major public health problem. In the 24th Surgeon General's Report, U.S. Surgeon General David Satcher documented that smoking among U.S. high school students increased thirty three percent (33%) from 1992-1998.[2] According to a 2000 survey conducted by the Centers for Disease Control and Prevention, eighty two percent (82%) of smokers tried their first cigarette before the age of eighteen.[3] Data from the 1991 National Household Survey on Drug Abuse indicated that fifty three percent (53%) of surveyed smokers began smoking daily before age eighteen.[4] These numbers are alarming because the earlier a young person's smoking habit begins, the more likely he or she will suffer a greater risk of diseases caused by smoking.[5] What is more, once someone becomes addicted to tobacco products, it is exceptionally difficult for that person to stop using them.[6] To break or change this pattern, Brookline must make it more difficult for merchants to sell to minors. If teenagers have difficulty buying tobacco, the initiation of tobacco use can be delayed or prevented.[7]

Prohibiting the sale of tobacco products to people under the age of nineteen would help curtail Brookline youths' access to tobacco products and potentially reduce youth

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[1] Center for Disease Control and Prevention. Smoking-attributable mortality, years of potential life lost, and productivity losses—United States, 2000-2004. MMWR Morb Mortal Wkly Rep. 2008; 57(45):1226-1228.

[2] Centers for Disease Control and Prevention, *Tobacco Use Among High School Students-United States, 1997*, 47 MORBIDITY & MORTALITY WKLY. REP. 229 (1998)

[3] Centers for Disease Control and Prevention, "Youth Surveillance- United States 2000," 50 MMWR 1 (Nov. 2000).

[4] FDA Final Rule*, supra* note 6, at 44440.

[5] Emanuela Taioli & Ernst L. Wynder, *Effect of the Age at Which Smoking Begins on Frequency of Smoking in Adulthood*, 325 NEW ENG. J. MED. 968-969 (1991).

[6] *See* U.S Dep't of Health and Human Servs., THE HEALTH CONSEQUENCES OF SMOKING-NICOTINE ADDICTION: A REPORT OF THE SURGEON GENERAL iii-v (1988).

[7] U. S. Dep't of Health & Human Servs, PREVENTING TOBACCO USE AMONG YOUNG PEOPLE: SURGEON GENERAL'S REPORT (1994).

smoking rates within the town. As the law currently stands, any person eighteen years or older can legally purchase and consume tobacco products. At Brookline High School, this means that 75.4% of current seniors will be legally able to purchase tobacco products this year.[8] Since very few students reach nineteen years of age while still enrolled in the high school, increasing the legal age of consumption by one year would greatly reduce the number of students that could purchase tobacco products in Brookline High School. By decreasing the number of eligible buyers in high school, this warrant article could help reduce youth smoking by decreasing the number of access points students have to tobacco products.

The intent of this warrant article is to allow the town of Brookline to help curtail youth smoking. This warrant article is comparable to tobacco laws that exist in other states and towns. Nationally, nineteen (19) is the minimum age of consumption for tobacco products in Alaska, Alabama, Utah, New Jersey, and three counties in New York State, including the two that make up Long Island. Locally, warrant articles that increase the age of consumption for tobacco products above the age of eighteen have passed in Needham without issue. Since these places were able to raise the minimum age of consumption of tobacco products without issue, one could infer that Brookline would be able to do the same.

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## SELECTMEN'S RECOMMENDATION

Article 12 is a petitioned article that would amend the Town's General By-Laws by making the minimum age to buy tobacco products 19. While the State minimum is 18 years old, municipalities are able to require a higher age. If adopted, Brookline will join Needham as a pioneer in the effort to reduce the use of tobacco products by our youth. Clearly, tobacco use is an unhealthy choice that leads to serious health issues, and we should take steps to help reduce the opportunity for our youth to purchase these products. The change in minimum age, while only one year, was designed to address the flow of tobacco products to high school age youth. In fact, just last Fall, the Board supported and Town Meeting passed Article 7, which prohibited the sale of tobacco products on the property of any educational institution or health care provider, such as pharmacies. This Article 12 is another prudent step to take. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 17, 2012, on the vote offered by the Advisory Committee.

**ROLL CALL VOTE:**
Favorable Action
DeWitt
Daly
Benka
Goldstein

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[8] Hal Mason, Assistant Headmaster, Brookline High School

## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 12 is a citizen-petitioned article. In this case the petitioner is a BHS student.

Last year Town Meeting supported enactment of Article 8.23.1 (d.) of the General By-laws, Tobacco Control. The by-law was approved by the Massachusetts Attorney General in March 2012; and the Brookline Public Health Department notified the eight establishments (Walgreen and CVS stores with Pharmacies) that under the new by-law they could no longer sell cigarettes as of April 9, 2012.

Warrant Article 12 asks the Town to amend Article 8.23.1 (d.) of the General By-laws, Tobacco Control, definition of Minor, by deleting the word "eighteen" and replacing it with the word "nineteen."

The intent of this warrant article is to allow the Town of Brookline to help curtail youth smoking by increasing the minimum age for tobacco purchase to nineteen. Seventy five percent of High School Seniors are eighteen years old and are legally able to buy tobacco products, though few will turn nineteen while in high school. The goal in increasing the age to nineteen is to prevent students from smoking throughout their high school years by making tobacco purchases more difficult. Also most seniors could not introduce or entice younger students to smoke if they themselves could not buy tobacco products.

DISCUSSION:
The change proposed under this warrant article is comparable to tobacco laws that exist in other states and towns. Nationally, nineteen (19) is the minimum age of consumption for tobacco products in Alaska, Alabama, Utah, New Jersey, and three counties in New York State, including two that make up Long Island. Locally, warrant articles that increase the age of consumption for tobacco products above the age of eighteen have passed in Needham without issue.

Needham has been collecting data since 2006 after the minimum age to purchase tobacco products was increased to 21. In 2006 Needham looked at current cigarette smoking (for the past 30 days) for high school students and then again in 2010, comparing the two data sets. Both times they had over 90% compliance of High School Students returning the questionnaire.

Current Cigarette smoking (for past 30 days) at Needham High School

| | | | |
|---|---|---|---|
| 2006 | 12.9% | of | 1291 students |
| 2010 | 6.7% | of | 1326 students |

The Town of Brookline Advisory Council on Public Health unanimously supports Warrant Article 12, which would prohibit the sale of tobacco products to youth under the age of nineteen. It stated that data indicates that a majority of current adult smokers try their first cigarette before age eighteen, while they are still in high school. Additionally,

research shows that the earlier a young person's smoking habit begins, the more likely s/he will become addicted and consequently experience greater risk for tobacco-related diseases.

In the case of drinking and driving there can be accidents injuring other people, so the effect on other people is obvious. However, while perhaps less obvious, people who smoke have a deleterious effect on others because of the harmful consequences of second hand smoke. Reducing and eliminating smoking benefits both the smokers and those around them.

Smokers now congregate outside the High School in an area that is not School Property. This area is at the end of Town owned property where there are playing fields and a park. This scene does not give a good impression of Brookline High School. Other municipalities have outlawed smoking on publicly owned land out-of-doors, particularly in parks. Brookline could simply make the park in front of BHS, including the sidewalks, a no smoking outdoor area. However this Article is trying to curtail smoking and not just move students who smoke to another area.

RECOMMENDATION:
The implementation of Article 12, if approved, would be instituted as to have as little effect as possible on people who now can legally smoke as well as educating all other students. The process of approval for the warrant article by the Attorney General takes about 6 months. The Brookline Public Health Department would alert the vendors that implementation would occur about 6 months after the AG approval, around May of 2013. In the meantime, the Brookline Public Health Department and the peer leaders would begin an educational campaign about the new regulations beginning this June and continuing next school year.

The Advisory Committee recommends FAVORABLE ACTION by a unanimous vote of 19 to 0 on the following motion:

VOTED: That the Town amend Article 8.23.1 (d.) of the General By-Laws, Tobacco Control, definition of Minor, by deleting the word "eighteen" and replacing it with the word "nineteen".

***XXX***

ARTICLE 13

THIRTEENTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will amend Sec. 4.07, Table of Use Regulations, in the Zoning By-Law by adding in Use 18, under subparagraph a, "over 2,500 s.f. of gross floor area" after the words "Health and fitness club", amending the end of subparagraph a to read: "and/or health services" in place of "and health", and changing the No to SP under the L column (Local Business), and by adding a new Use 18A, Small Group Health and Fitness Club, as follows.

| Principal Uses | Residence | | | | | Business | | | Ind. |
|---|---|---|---|---|---|---|---|---|---|
| | S | SC | T | F | M | L | G | O | I |
| 18. Private Club or Lodge<br>a) Health and fitness club, **over 2,500 s.f. of gross floor area** operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and**/or** health **services**. | No | No | No | No | No | ~~No~~ **SP** | SP | SP | SP |
| b) Private club or lodge, operated not for profit and for members only, other than use 13. | No | No | No | No | No | Yes | Yes | Yes | Yes |
| 18A. Small group health and fitness club not exceeding 2,500 square feet of gross floor area operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and/or health services. | No | No | No | No | No | Yes | Yes | Yes | Yes |

or act on anything else relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Planning and Community Development Department is submitting this article at the recommendation of the Selectmen's Zoning By-Law Committee. There has been a proliferation of small group fitness businesses in Brookline's commercial districts. These businesses tend to locate in smaller storefronts (500-2,500 s.f.) and are characterized by being limited to personal training (either individual or in small groups) or one group fitness class at a time (i.e. yoga, pilates or karate studios, etc.). These facilities are substantially smaller than health clubs and offer substantially fewer amenities. However, as there is no exemption in the Zoning By-law for small scale fitness clubs; they are required to go through the same special permit process as their higher-impact cousins, full service gyms. It was believed that issues of noise and/or vibration would be likely be self-regulated by property owners, who would seek to ensure that there were no adverse impacts on other tenants in their buildings. As these clubs will likely have a minimal impact, the Zoning By-Law Committee proposes allowing them as a by-right use in commercial districts.

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RECOMMENDATION OF THE ZONING BY-LAW COMMITTEE

Article 13 was recommended by the Zoning By-Law Committee in light of the emergence of small health and fitness centers (2,500 sq. ft. or less) as distinct from large, full service health clubs. The article proposes two changes. First, larger health and fitness clubs, currently banned in L (local business) districts, would be allowed in such districts by special permit (although it was noted that building size would likely permit only small clubs in any event). Second, a new category of small health and fitness centers would be created and would be allowed by-right in all business and industrial zones. It was thought that the special permit process should continue to be imposed for larger health clubs because of their potential for more substantial impacts, but could be eliminated for smaller clubs with lesser potential impacts.

The Committee's discussions focused on the recommendation that small health clubs be allowed by-right. One concern was that certain small fitness centers are not staffed at all times, but rather simply provide equipment for patrons to use with electronic monitoring. The view of the Committee was that this was an issue that might dissuade some potential customers, but was not a zoning issue that would be considered within the special permit process in any event.

The Committee held an additional meeting after publication of the warrant. At that meeting, representatives of the Chamber of Commerce and the Coolidge Corner Merchants Association (CCMA) suggested that both Article 13 (health clubs) and Article 14 (animal day care) should be narrowed to draw a distinction between ground floor spaces and spaces on other floors (basement, second, third, etc.). One recommendation, for example, was that special permits be required for uses on the ground floor. The rationale was that "service" businesses do not create the proper atmosphere for window shopping, browsing and socializing in shopping areas, and "go dark at night." There was particular criticism of the existing proliferation of banks and child daycare centers on ground floors in the Town's commercial areas. There was also criticism of drugstores,

which were identified as "destination" retailers that do not attract browsers or window shoppers likely to go from store to store. The CCMA expressed concern that the Town was, by proposing these zoning changes, encouraging the proliferation of just the type of businesses they wish to limit.

Committee members, however, noted that many businesses, including banks and child daycare centers, "go dark at night," and there was no basis to single out fitness centers or animal daycare. Examples were also given of fitness centers that actually bring life to commercial districts in the evening. In addition, the increase of service businesses in brick-and-mortar locations may be inevitable, given the increasing popularity of internet shopping for goods. It was also pointed out that continuing to require special permits for small fitness centers would not accomplish a great deal, since the "commercial mix" concerns raised by the Chamber of Commerce and CCMA are also not the sort of issues considered under special permits.

The Committee concluded that the Chamber and CCMA were, in fact, raising a much broader issue that would not be addressed by singling out two service uses. Because the properties in the Town's commercial areas such as Coolidge Corner are owned by multiple landlords, there is no inherent structure that encourages a complementary mix of retail uses to attract window shoppers, the way that there would be at a single-owner shopping mall.

A representative of the CCMA pointed out that achieving the goal of getting the commercial mix right would benefit all businesses in the commercial area, and therefore this goal should be promoted on that basis. It was suggested by the CCMA representatives that the number of "service" businesses within an area could be limited, or the types of businesses on key commercial corners could be restricted. Such suggestions, however, went far beyond the scope of the article, and would be better considered by the Economic Development Advisory Board and the Town's Economic Development Director. Representatives of EDAB indicated that that board would in fact consider such proposals, and would include previous research and past discussions from the Selectmen's Small Commercial Exemption Study Committee. It was also recommended that any study investigate communities that appear to have vibrant "shopping-based" multi-landlord commercial areas, to see whether there are particular policies – zoning or otherwise – that have been successful.

The Zoning By-Law Committee advised the Chamber and the CCMA that they could bring their concerns before EDAB, the Advisory Committee and the Selectmen, but, pending further information, the Zoning By-Law Committee unanimously adhered to its recommendation of favorable action on Article 13.

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## PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Department of Planning and Community Development, with the support of the Selectmen's Zoning By-Law Committee. The

purpose of this amendment is to address the lack of differentiation between full service health clubs and small group fitness and health facilities in the Zoning By-Law. The full service health club use requires a special permit from the Zoning Board of Appeals. They have fairly large spaces, more members and staff on site at any given time, and the potential to have more impacts on the surrounding neighborhood, particularly with respect to parking. The small group fitness facilities are significantly smaller in terms of both square footage and number of members and staff on site at any given time, and tend to have a much lower impact. The Planning Board feels the lower intensity small group fitness use should not require a special permit and should be allowed by-right in commercial districts. The Planning Board is also supportive of the proposed alteration to allow large health clubs in excess of 2,500 square feet of gross floor area by special permit in local business districts (L). This allows a case-by-case review to evaluate any negative impacts.

Although the Planning Board understands that some members of the community are concerned that these service businesses should not occupy ground floor retail storefronts, the Planning Board believes these uses do not detract from the streetscape and contribute to the diversity and vibrancy of the business community. The Planning Board notes that three small group fitness businesses have applied for and received special permits in 2011, and none of them generated any nuisance complaints.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 13 as submitted.

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## SELECTMEN'S RECOMMENDATION

Article 13 was submitted by the Department of Planning and Community Development, with the support of the Selectmen's Zoning By-Law Committee. It would amend the Zoning By-Law's use table to differentiate between smaller health clubs (under 2,500 square feet) and larger health clubs. Smaller health clubs would be permitted by right in all business and industrial districts. Larger health clubs would require special permits, as currently required of all health clubs, in General, Office and Industrial zones. This amendment would also allow larger health clubs in Local Business districts by special permit.

The rationale for this amendment is that smaller health clubs have much lower impacts than larger ones, and therefore should not require the special permit process. In fact, these smaller health clubs help add options and vitality to commercial areas by bringing residents into the area, who may also then shop at other businesses in the commercial area. In addition, the amendment recognizes that there may be times when a larger health club may be appropriate in a Local Business district, and therefore they may be allowed by a discretionary special permit.

During its review process, the Board heard from the Brookline Chamber of Commerce, which expressed concern that smaller health clubs might have a detrimental effect on business districts by creating "dark spaces" at night. On the other hand, some Board

members pointed out that a number of these small health clubs already exist and do not appear to be having a noticeable negative effect. In addition, it was noted that having business services in commercial areas often has a positive spinoff effect on retail and food service uses nearby.

Whiles sympathetic to the concerns of some members of the business community, the Board believes that, on the whole, the benefits of this amendment likely outweigh any potential drawbacks. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 10, on the following motion:

VOTED: That the Town amend Sec. 4.07, Table of Use Regulations, in the Zoning By-Law by adding in Use 18, under subparagraph a, "over 2,500 s.f. of gross floor area" after the words "Health and fitness club", amending the end of subparagraph a to read: "and/or health services" in place of "and health", and changing the No to SP under the L column (Local Business), and by adding a new Use 18A, Small Group Health and Fitness Club, as follows:

| Principal Uses | Residence | | | | | Business | | | Ind. |
|---|---|---|---|---|---|---|---|---|---|
| | S | SC | T | F | M | L | G | O | I |
| 18. Private Club or Lodge<br>a) Health and fitness club, **over 2,500 s.f. of gross floor area** operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and**/or** health **services**. | No | No | No | No | No | ~~No~~ **SP** | SP | SP | SP |
| b) Private club or lodge, operated not for profit and for members only, other than use 13. | No | No | No | No | No | Yes | Yes | Yes | Yes |
| 18A. Small group health and fitness club not exceeding 2,500 square feet of gross floor area operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and/or health services. | No | No | No | No | No | Yes | Yes | Yes | Yes |

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 13 has been submitted by the Department of Planning and Community Development and has been reviewed by the Zoning Bylaw Committee, which voted to recommend Favorable Action. The Planning Board voted unanimously to recommend Favorable Action.

In recent years, several small group health and fitness clubs have opened in Brookline. These clubs generally occupy less than 2,500 square feet and offer personal training or one group fitness class at any given time. They are much smaller than large, full-service gyms, but they are currently treated the same as larger gyms in the Zoning Bylaw: both types require a special permit.

Article 13 would create a new use category (18A) for small group health and fitness clubs not exceeding 2,500 square feet of gross floor area. Such clubs could exist by right in all categories of business districts (Local, General, and Office) and in Industrial zones. It also would allow large health clubs to operate by special permit in areas zoned for Local Business, where they not currently allowed. The Article also includes a small change that clarifies the description of health and fitness clubs.

DISCUSSION:
The rationale for Article 13 is that small health and fitness clubs have a relatively minimal impact compared to large health and fitness clubs. Because they do not have significant parking needs or other effects on the surrounding area, small health clubs should not have to go through the same process required of large clubs. They should be allowed by right. The staff of the Department of Planning and Community Development and the Planning Board should focus their time on other uses (including large health clubs) that are more likely to have a negative impact or to generate nuisance complaints.

Some members of Brookline's business community have argued against Article 13, because they are concerned that businesses offering services already are occupying an excessively large proportion of properties in Brookline's commercial districts. This argument holds that having too many service businesses—particularly at street level—undermines the vibrancy of commercial areas and makes it harder for retail establishments to flourish. Unlike many retail stores, service businesses often do not have visually appealing window displays. Small fitness clubs, for example, may cover their windows to maintain privacy for their members. In addition, service businesses that close in the evening make their storefronts dark and do not generate pedestrian traffic. Removing the requirement that small fitness clubs obtain a special permit could lead to further increases in the number of service businesses in Brookline and a reduction in the number of retail stores. Requiring a special permit at least makes it possible to limit the number of small health and fitness clubs in Brookline.

Members of the Advisory Committee were sympathetic to the need to maintain a mix of different types of businesses in commercial districts, but they were not persuaded that this

concern justified a No Action vote on Article 13. The following factors are the basis for this conclusion.

- Small health and fitness clubs do not necessarily "go dark" in the evenings. Some may stay open and generate foot traffic. They are more likely than banks and child care centers, for example, to remain open in the evening.
- It would be unfair and discriminatory to single out small health and fitness clubs as a category of service business to be limited by zoning.
- Using zoning and a requirement of a special permit might not be the optimal way to limit the number of small health clubs. It would be hard for the Board of Appeals to deny a special permit except in cases where there was already a high number of small health clubs in a particular area.
- The level of demand probably will limit the number of small health clubs in any given area.
- Even if health clubs are not as desirable or as visually interesting as retail businesses, they are far better than empty storefronts.

The question of maintaining an optimum mix of types of businesses in Brookline's commercial areas deserves attention and should be considered by the Economic Development Advisory Board.

RECOMMENDATION:
By a vote of 18–1–2 the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

***XXX***

ARTICLE 13

**Amendment offered by Harry Friedman, TMM-14**

Move to delete the phrase "and changing the No to SP under the L column (Local Business),"

Explanation

Health clubs and fitness centres are currently not allowed in Local Business districts. This amendment would retain the status quo, at least as far as large health clubs and fitness centres are concerned.

Most of article 13's purpose appears to be to allow a new class of small health and fitness centres by-right in all business and industrial zones. However, the article also would allow larger health and fitness clubs into the Local Business districts by special permit. Currently, these businesses are not allowed in the L district at all.

Why is this change occurring? The only reference to the change in the warrant article's explanation is that "it was noted that building size would likely permit only small clubs in any event." This is not a reason to change. It is merely a note that the change may not have much effect.

However, I see no reason to even allow for the possibility of larger clubs going into an L district. I agree with the Chamber of Commerce and the Coolidge Corner Merchants Association, that these types of businesses "do not create the proper atmosphere for window shopping, browsing and socializing in shopping areas." These businesses deaden our commercial areas. Large clubs currently are not allowed in Local Business districts and no good reasons (actually, no reasons at all) have been offered as to why we should allow them, even by special permit, and even if they are unlikely to occur. Let's make sure they don't occur, and keep the zoning regulation as is, at least regarding larger clubs.

ARTICLE 14

FOURTEENTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will amend Sec. 4.07, Table of Use Regulations, in the Zoning By-Law by adding a new Use 32A, Domestic Household Animal Day Care Center, and by changing in Use 20A, Office or Clinic of a Licensed Veterinarian, "No" to "SP" under the L column (Local Business), as follows.

| Principal Uses | Residence | | | | | Business | | | Ind. |
|---|---|---|---|---|---|---|---|---|---|
| | S | SC | T | F | M | L | G | O | I |
| 32A. Domestic Household Animal Day Care Center, including overnight kenneling, grooming, training and other accessory services. No outdoor facilities for the animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal, and subject to restrictions as to number, location, and size of facilities imposed by the Brookline Director of Public Health. | No | No | No | No | No | SP | SP | No | SP |
| 20A. Office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding facilities. No outdoor facilities for animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. | No | No | No | No | No | ~~No~~ **SP** | SP | SP | SP |

or act on anything else relative thereto.

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PETITIONER'S ARTICLE DESCRIPTION

The Planning and Community Development Department is submitting this article at the recommendation of the Selectmen's Zoning By-Law Committee. Recently, there was a proposal for a "doggie day care" facility in Coolidge Corner. Since this use didn't exist when the Table of Uses was formulated in the 1960s, and there are likely to be future requests for this use, including other types of domestic household animals, it should be added to the Table of Uses. Conditions for allowing a veterinarian office (Use #20A) require studies by recognized experts addressing noise, odor and waste disposal impacts, and this condition should be included for the animal day care use as well, since the impacts are similar. Additionally, at the request of the Public Health Director, a condition has been added allowing the Director to impose restrictions on the number, size, and location of the facilities. It is proposed here that the new animal day care use be allowed in local business, general business and industrial districts by special permit and that the veterinarian office use (Use #20A) be amended to allow it, again by special permit, in local business districts, where it is now forbidden.

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RECOMMENDATION OF THE ZONING BY-LAW COMMITTEE

*Note: At the time the Zoning By-Law Committee voted, the Police, Health and Parks & Recreation Departments had not yet met and recommended that annual licensing of "doggie day care" centers be considered. Accordingly, in its vote the ZBLC did not consider referral of Use 32A to allow such a licensing structure to be created. The ZBLC, therefore, did not take a position on referral. Similarly, any additional language regarding noise control with regard to Use 20A was proposed after the ZBLC's meeting, and the ZBLC therefore did not take a position on such language.*

Article 14 was recommended by the Zoning By-Law Committee in response to a new type of emerging business, "doggie day care" or, more broadly, domestic household animal day care.

Under the current Zoning By-Law, a licensed veterinarian's office may include "holding facilities," i.e., kennels, by special permit in most business districts. Article 14 would extend the opportunity for a veterinary office to locate in L (local business) districts by special permit. Moreover, Article 14 would permit non-veterinarian animal day care by special permit in L (local business), G (general business) and I (industrial districts), but not in O (office) districts. Such facilities could provide kenneling, grooming, training and other accessory services. No outdoor facilities would be permitted, and the by-law would specifically require the Board of Appeals to determine that nearby properties were protected against noise, odor and improper waste disposal. In addition, the Article gives the Director of Public Health the authority to restrict the number, location, and size of such facilities. This provision gave comfort to some Committee members who, upon first

reviewing the Article, had found it surprising that some form of State Licensing was not required.

There was concern about one aspect of the business model: the fact that animals may be kenneled overnight without an attendant being present. This is, however, also true of the currently allowed kennels owned by a veterinarian and was, in the end, viewed by a majority of the Committee as an issue that would be decided by the animal owner, rather than as a zoning regulation issue.

As with Article 13, representatives of the Chamber of Commerce and the Coolidge Corner Merchants Association (CCMA) expressed concern about the spread of "service" businesses on the ground floor in commercial areas, pointing particularly to banks and child care centers. As discussed more fully with respect to Article 13, the Committee felt that the Chamber and the CCMA were raising a much broader issue that would not be solved by singling out a particular service such as animal day care and that would appropriately be investigated in the first instance by the Economic Development Advisory Board and the Economic Development Director. Committee members noted that it was preferable to have a clearly defined use category for these emerging businesses, giving guidance to regulatory decision makers. The Committee accordingly recommends favorable action on Article 14.

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## PLANNING BOARD REPORT AND RECOMMENDATION

This article was submitted by the Department of Planning and Community Development, with the support of the Selectmen's Zoning By-Law Committee. However, after further discussions with the Brookline Health Director and the Police Department's Animal Control Officer, the Planning Department is requesting that Town Meeting refer the part of the article related to establishing a new use for Domestic Household Animal Day Care back to the Zoning By-Law Committee for additional evaluation and possible requirements for annual inspections and other safeguards. These could be accomplished either through the current Town Clerk dog licensing procedures or through a General Town By-Law. However, the Planning Board would recommend allowing veterinarian hospital use (Use #20A) by special permit in local business districts, where now it is prohibited. It is a convenience for a neighborhood to have a neighborhood veterinarian, and since a special permit would require a case-by-case review, it seems appropriate to allow them in local business districts, when impacts are found negligible.

The Planning Board concurs with this approach and would like to see more time provided to research other Town's regulations and possible safeguards, which would protect the Town if negative impacts were to result from a facility not utilizing optimal operational standards. However, the Planning Board supports allowing the veterinarian hospital use in all business districts.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on a revised Article 14 allowing Veterinarian Hospital Use (Use #20A) by special permit in

local business districts and referral of the new use category for Domestic Household Animal Day Care back to the Planning and Community Development Department and Zoning By-Law Committee for further study of possible safeguard regulations. The revised language follows:

To see if the Town will amend Sec. 4.07, Table of Use Regulations, in the Zoning By-Law by changing in Use 20A, Office or Clinic of a Licensed Veterinarian, "No" to "SP" under the L column (Local Business), as follows.

| Principal Uses | Residence | | | | | Business | | | Ind. |
|---|---|---|---|---|---|---|---|---|---|
| | S | SC | T | F | M | L | G | O | I |
| 20A. Office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding facilities. No outdoor facilities for animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. | No | No | No | No | No | ~~No~~ **SP** | SP | SP | SP |

or act on anything else relative thereto.

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SELECTMEN'S RECOMMENDATION

Article 14 was submitted by the Department of Planning and Community Development, with the support of the Selectmen's Zoning By-Law Committee. It would amend the Zoning By-Law's use table to create a new use 32A (domestic household animal day care facilities) and also amend the use table for use 20A to permit offices of veterinarians in Local Business (L) districts.

During the review process, staff from the Planning & Community Development Department noted that they had been in a meeting with the Health Department, the Town's Animal Control Officer, and the Police Department regarding this proposal to allow domestic animal daycare. Staff concluded during that meeting that an annual licensing system, based on the current kennel permits issued by the Town Clerk, should be developed to prevent health and safety problems from developing after a facility

received zoning approval. Staff recommended holding off on the new use 32A for that reason, and the Board of Selectmen support that recommendation.

In addition, Board members raised concerns about noise from animals in veterinarians' offices in the L districts, many of which are quite close to nearby residences. After discussion, the Board decided that there should be additional conditions to ensure that noise from animals is properly managed in any veterinarians' offices in L districts.

The Board (1) supports the staff recommendation to hold off on domestic household animal day care until a licensing system is also ready to be proposed and (2) supports adding veterinarians' offices to the list of uses allowed by Special Permit in the L districts provided that some additional safeguards as described above are in place. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 24, 2012, on the following motions:

VOTED: To refer the new use category for Domestic Household Animal Day Care back to the Planning and Community Development Department and Zoning By-Law Committee for further study of possible safeguard regulations.

VOTED: That the Town amend Sec. 4.07, Table of Use Regulations, in the Zoning By-Law by changing in Use 20A, Office or Clinic of a Licensed Veterinarian, "No" to "SP" under the L column (Local Business), as follows:

| Principal Uses | Residence | | | | | Business | | | Ind. |
|---|---|---|---|---|---|---|---|---|---|
| | S | SC | T | F | M | L | G | O | I |
| 20A. Office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding facilities. No outdoor facilities for animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. | No | No | No | No | No | ~~No~~ **SP*** | SP | SP | SP |

* Verification of noise control shall include verification by a professional engineer (P.E.), utilizing an acoustical engineer under his/her supervision if necessary, that under worst-case (e.g., maximum number of animals, open windows if applicable) conditions neither

daytime nor nighttime background noise levels, as defined in Article 8.15.3 of the Town By-Laws, will be exceeded at the boundary of the property where the use is located.

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
At present, there is nothing in the Table of Uses in the town's Zoning By-Law that allows as a permitted use an animal day care center. Inasmuch as a proposal for a "doggie day care" facility in Coolidge Corner has recently surfaced, and proposal for other similar facilities for dogs and other domestic pets can be anticipated, this Article, submitted by the Department of Planning and Community Development at the request of the Zoning By-Law Committee, seeks to amend the Zoning By-Law by adding a new Use 20A, Domestic Animal Day Care Center, that would allow such facilities in L (Local), G (General), and I (Industrial) Business Districts via special permit, under which appropriate conditions dealing with noise, odor, and waste disposal impacts could be imposed.

Similar impact issues arise with licensed veterinary offices and clinics, which are now allowed under Use 32A, Office or Clinic of a Licensed Veterinarian, by special permit in G, I, and O (Office) Business Districts but are presently prohibited in Local Business Districts. This Article also seeks amend Use 32A to allow these veterinary facilities to operate in L Business Districts as well, by special permit.

DISCUSSION:
With regard to the proposed animal day care usage, further discussions with the Brookline Health Director and the Police Department's Animal Control Officer, have caused the Planning Department to request that Town Meeting refer that part of the article back to the Zoning By-Law Committee for additional evaluation and possible requirements for annual inspections and other relevant safeguards that could be accomplished either through the current dog and kennel licensing procedures or through a General Town By-Law as potential alternatives to amending the Zoning By-Law.

In addition, the Advisory Committee heard a cautionary note from the Chamber of Commerce about adding yet another service type facility such as "doggie day care" to the banks, childcare facilities, certain fitness clubs, and similar storefronts that go dark in the evening and/or whose activities tend to be closed off from public view and so could undermine and detract from the liveliness of town business districts. However, unlike the situation in a shopping mall where a single landlord is able to control the mix of tenants renting space, achieving an optimal mix in Brookline's commercial districts would require the cooperation of multiple landlords and it is not clear that adjustments to the Zoning By-Law could aid in this process. Market forces largely determine those businesses seeking to rent space, and whatever the perceived drawbacks of doggie day care, it is hard to argue that empty storefronts would be preferable.

As to the proposed zoning amendment to allow licensed veterinarians to operate offices or clinics in Local Business Districts, the Planning Board believes that it would be a convenience in many cases for neighborhoods to have a neighborhood veterinarian and hence it seems reasonable to amend Use 32A to allow such use by special permit in L Districts, which already allows it by special permit in G, O, and I Districts. Businesses in L Districts are generally closer to residential housing than they are in the Town's other business districts and therefore close-by neighborhoods are more likely to be negatively affected by commercial activity taking place there. However, since the necessary special permits would be awarded only after a case-by-case review, it seems appropriate to allow veterinary offices and clinics in Local Business Districts provided that such review determines that any adverse impacts would be negligible.

RECOMMENDATION:
The Advisory Committee agrees that it is reasonable to amend Use 32A of the Zoning By-Law to allow veterinary offices and clinics in L Districts but concurs with the Planning Board that further consideration of the animal day care proposed usage is still needed and thus concurs with the Planning Board's recommendation for referral. In view of the foregoing, the Advisory Committee, by a vote of 16-2-1, recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town amend Sec. 4.07, Table of Use Regulations, in the Zoning By-Law by changing in Use 20A, Office or Clinic of a Licensed Veterinarian, "No" to "SP" under the L column (Local Business), and refer the proposed new use category for Domestic Household Animal Day Care back to the Planning and Community Development Department and Zoning By-Law Committee for further study of possible safeguard regulations.

| Principal Uses | Residence | | | | | Business | | | Ind. |
|---|---|---|---|---|---|---|---|---|---|
| | S | SC | T | F | M | L | G | O | I |
| 20A. Office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding facilities. No outdoor facilities for animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. | No | No | No | No | No | ~~No~~ **SP** | SP | SP | SP |

## ARTICLE 14

## BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

On May 8, 2012, the Board of Selectmen amended its motion by adding the words "Moreover, as a condition of a Special Permit, the ZBA shall require that further noise control measures be undertaken in the future if such background noise levels are exceeded during operation of the facility" to the end of the footnote. By a vote of 5-0, the motions under Article 14 now read as follows:

VOTED: To refer the new use category for Domestic Household Animal Day Care back to the Planning and Community Development Department and Zoning By-Law Committee for further study of possible safeguard regulations.

VOTED: That the Town amend Sec. 4.07, Table of Use Regulations, in the Zoning By-Law by changing in Use 20A, Office or Clinic of a Licensed Veterinarian, "No" to "SP" under the L column (Local Business), as follows:

| Principal Uses | Residence | | | | | Business | | | Ind. |
|---|---|---|---|---|---|---|---|---|---|
| | S | SC | T | F | M | L | G | O | I |
| 20A. Office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding facilities. No outdoor facilities for animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. | No | No | No | No | No | ~~No~~ **SP*** | SP | SP | SP |

* Verification of noise control shall include verification by a professional engineer (P.E.), utilizing an acoustical engineer under his/her supervision if necessary, that under worst-case (e.g., maximum number of animals, open windows if applicable) conditions neither daytime nor nighttime background noise levels, as defined in Article 8.15.3 of the Town

By-Laws, will be exceeded at the boundary of the property where the use is located. Moreover, as a condition of a Special Permit, the ZBA shall require that further noise control measures be undertaken in the future if such background noise levels are exceeded during operation of the facility.

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ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

The Advisory Committee unanimously recommends FAVORABLE ACTION on the amended motion offered by the Selectmen.

ARTICLE 15

FIFTEENTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will amend its Zoning Bylaw as follows:

1. To replace the existing Section 4.10 with the following (additions in bold and underlined, deletions crossed out and in bold):

**"§4.10 - FLOODPLAIN OVERLAY DISTRICT**

1. *Purpose*
   The general purpose of this section is to effectively protect the water resources of the Town with zoning provisions that regulate floodplains in a manner that, at a minimum, meets the requirements of the Federal Emergency Management Administration (FEMA) for their National Flood Insurance Program (NFIP). Specifically, the purposes of the Floodplain Overlay District are to:
   a. Ensure public safety through reducing the threats to life and personal injury;

   b. Eliminate hazards to emergency response officials;

   c. Prevent the occurrence of public emergencies resulting from water quality contamination and pollution due to flooding;

   d. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;

   e. Eliminate costs associated with the response and cleanup of flooding conditions;

   f. Reduce damage to public and private property resulting from flooding waters.

2. *Establishment and Applicability*

   a. Establishment—There is hereby established a Floodplain Overlay District which shall be governed by the regulations specified in this section.

   b. Applicability—No structure or building shall be erected, constructed, expanded, substantially improved, or moved and no earth or other materials shall be dumped, filled, excavated, transferred, or otherwise altered in the Floodplain Overlay District unless a special permit is duly granted by the Board of Appeals.

c. General Exemptions—For the purposes of this Section, a special permit shall not be required for any demolition or other activity that reduces impervious surface on a lot within the Floodplain Overlay District.

d. Setback Exemptions—Any required flood water retention systems or related facilities may be permitted to extend into required yard setbacks if deemed appropriate by the Board of Appeals.

e. Emergency Repairs—The special permit required in this Section shall not apply to emergency repairs or projects necessary for the protection of the health, safety or welfare of the general public which are to be performed or which are ordered to be performed by a Town department, or the commonwealth, or a political subdivision thereof. In no case shall any filling, dredging, excavating, or otherwise extend beyond the time necessary to abate the emergency.

3. *Definitions*

The following definitions specifically refer to the provisions of this section. The definition of any term not provided in this subsection shall be that which can be found in a generally acceptable dictionary of the English language.

a. AREA OF SPECIAL FLOOD HAZARD—Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A **or AE**.

b. BASE FLOOD—Means the flood having a one percent chance of being equaled or exceeded in any given year.

c. DEVELOPMENT—Means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

d. DISTRICT—Means floodplain district.

e. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)—Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

~~**f. FLOOD BOUNDARY AND FLOODWAY MAP—Means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM).**~~

~~**g. FLOOD HAZARD BOUNDARY MAP (FHBM)—Means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A.**~~

**f.** FLOOD INSURANCE RATE MAP (FIRM)—Means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**g.** FLOODWAY—Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**h.** LOWEST FLOOR—Means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

**i.** NFIP—National Flood Insurance Program administered by FEMA.

**j.** NEW CONSTRUCTION—Means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, New Construction means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

**k.** ONE-HUNDRED-YEAR FLOOD—See BASE FLOOD.

**l.** REGULATORY FLOODWAY—See FLOODWAY.

**m.** SPECIAL FLOOD HAZARD AREA—Means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A.

**n.** START OF CONSTRUCTION—Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, or floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**o.** STRUCTURE—Means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. STRUCTURE, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a

manufactured home on foundation. For the latter purpose, the terms includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

**p.** SUBSTANTIAL DAMAGE—Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**q.** SUBSTANTIAL IMPROVEMENT—Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

**r.** ZONE A—Means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local or other data.

**s. ZONE AE—Means the 100-year floodplain where the base flood elevation has been determined.**

**t. ZONE X~~ZONES B AND C~~**—Are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. **Zone X replaces Zones B and C on new and revised maps.**

4. *Floodplain District Boundaries and Base Flood Elevation and Floodway Data*

a. Floodplain District Boundaries
The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated **as Zone A or AE on the Norfolk County Floor Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Brookline are panel numbers 25021C0032E, 25021C0033E, 25021C0034E, 25021C0041E, 25021C0042E, 25021C0051E, and 25021C0053E dated July 17, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, Conservation Commission and Town Engineer. The existing flood insurance maps for the Town of Brookline, dated November 28, 1980, shall remain in effect until July 17, 2012. ~~on the Brookline Flood Insurance Rate (FIRM) I (1-10) and Flood~~**

~~**Hazard Boundary Map H (1-10) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated November 28, 1980 as Zone "A" which indicates the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance study booklet date (FIS dated November 1976). The FIRM and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission, and the Town Engineer.**~~

b. Base Flood Elevation and Floodway Data
   1) Floodway Data
      In Zone "A", along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
   2) Base Flood Elevation Data
      Base flood elevation data is required for any subdivision proposal, any new building or development, and any other development that would result in additional impervious surface within any floodplain overlay district.

5. *Notification of Watercourse Alteration*
   The Town Clerk, in consultation with the Building Commissioner and Town Engineer, shall notify, in a riverine situation, the following agencies of any alteration or relocation of a watercourse:

   a. Adjacent Communities

   ~~**b. Bordering Communities**~~

   **b.** **Massachusetts Department of Conservation and Recreation** ~~**Massachusetts Office of Water Resources**~~, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104

   **c.** NFIP Program Specialist, FEMA Region I, **99 High Street, 6th Floor, Boston, MA 02110.**~~**Rm. 462, J.W. McCormack Post Office & Courthouse, Boston, MA 02109**~~

6. *Use Regulations*

   a. Reference to Existing Regulations
      The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with M.G.L., Chapter 131, Section 40 and with the following:

1) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR~~**3107.0, "Flood Resistant Construction"**~~);

2) Wetlands Protection Regulations, Department of Environmental Protection (DEP), (currently 310 CMR 10.00);

3) Inland Wetlands Restriction, DEP (**currently 310 CMR 13.00** ~~**302 CMR 6.00**~~);

4) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

5) Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

7. *Encouraged Uses*
The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

a. Urban agricultural uses such as urban farming, horticulture, etc.

b. Nursery uses.

c. Outdoor recreational uses, including fishing, boating, play areas, etc.

d. Conservation of water, plants, wildlife.

e. Wildlife management areas, foot, bicycle, and/or horse paths.

f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

g. Buildings lawfully existing prior to the adoption of these provisions.

8. *Procedures*

a. Application for a special permit shall be made on a form prescribed by the Board of Appeals. In addition to information generally required for such a submittal, the applicant shall also present the following:

1) a detailed site plan drawn to a scale of one inch equals twenty (20) feet showing the elevation and design of flood water retention systems as required by applicable law;

2) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

3) base flood elevation data, where the base flood elevation is not provided on the FIRM;

4) certification and supporting documentation by a Massachusetts registered professional engineer demonstrating that such encroachment of the floodway shall not result in any increase in flood levels during the occurrence of the 100-year flood; and

5) four (4) copies of all application materials.

b. Upon receipt of the application and development plans, the Town Clerk shall transmit copies of the plans to the Conservation Commission, Town Engineer, and Board of Appeals. Within forty-five (45) days of receipt of the plans, the Conservation Commission and the Town Engineer shall review said plans and submit their respective reports and recommendations to the Board of Appeals. The Board shall not render any decision on an application for a special permit for development in the Floodplain Overlay District until said reports have been received and considered or until the forty-five (45) day period has expired without the receipt of such report, whichever is earlier.

c. In the course of their standard review and approval of subdivisions, the Planning Board shall assure that:

1) such subdivisions minimize flood damage;

2) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

3) adequate drainage is provided to reduce exposure to flood hazards.

d. There shall be established a "routing procedure" which will circulate or transmit copies of the development plan to the appropriate review agencies and boards for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

9. *Criteria*

The Board of Appeals may grant a Special Permit for development in the Floodplain Overlay District if the Board finds that such development has met all of the following criteria in addition to other criteria required for the granting of a special permit:

a. No filling or other encroachment shall be allowed in Zone "A" areas or in the floodway which would impair the ability of these special flood hazard areas to carry and discharge flood waters, except where such activity is fully offset by stream improvements such as, but not limited to, flood water retention systems as allowed by applicable law.

b. Displacement of water retention capacity at one location shall be replaced in equal volume at another location on the same lot, on an abutting lot in the same ownership, on a noncontiguous lot in the same ownership, or in accordance with paragraphs 1) through 3) below:

1) All flood water retention systems shall be suitably designed and located so as not to cause any nuisance, hazard, or detriment to the occupants of the site or abutters. The Board of Appeals may require screening, or landscaping of flood water retention systems to create a safe, healthful, and pleasing environment.

2) The proposed use shall comply in all respects with the provision of the underlying zoning district, provisions of the State Building Code, State Inland Wetland Act, and any other applicable laws.

3) Any development activity requiring a special permit from the Board of Appeals under other provisions of this Zoning By-law shall incorporate the requirements of this Section within the scope of that special permit and shall not require separate application to the Board of Appeals.

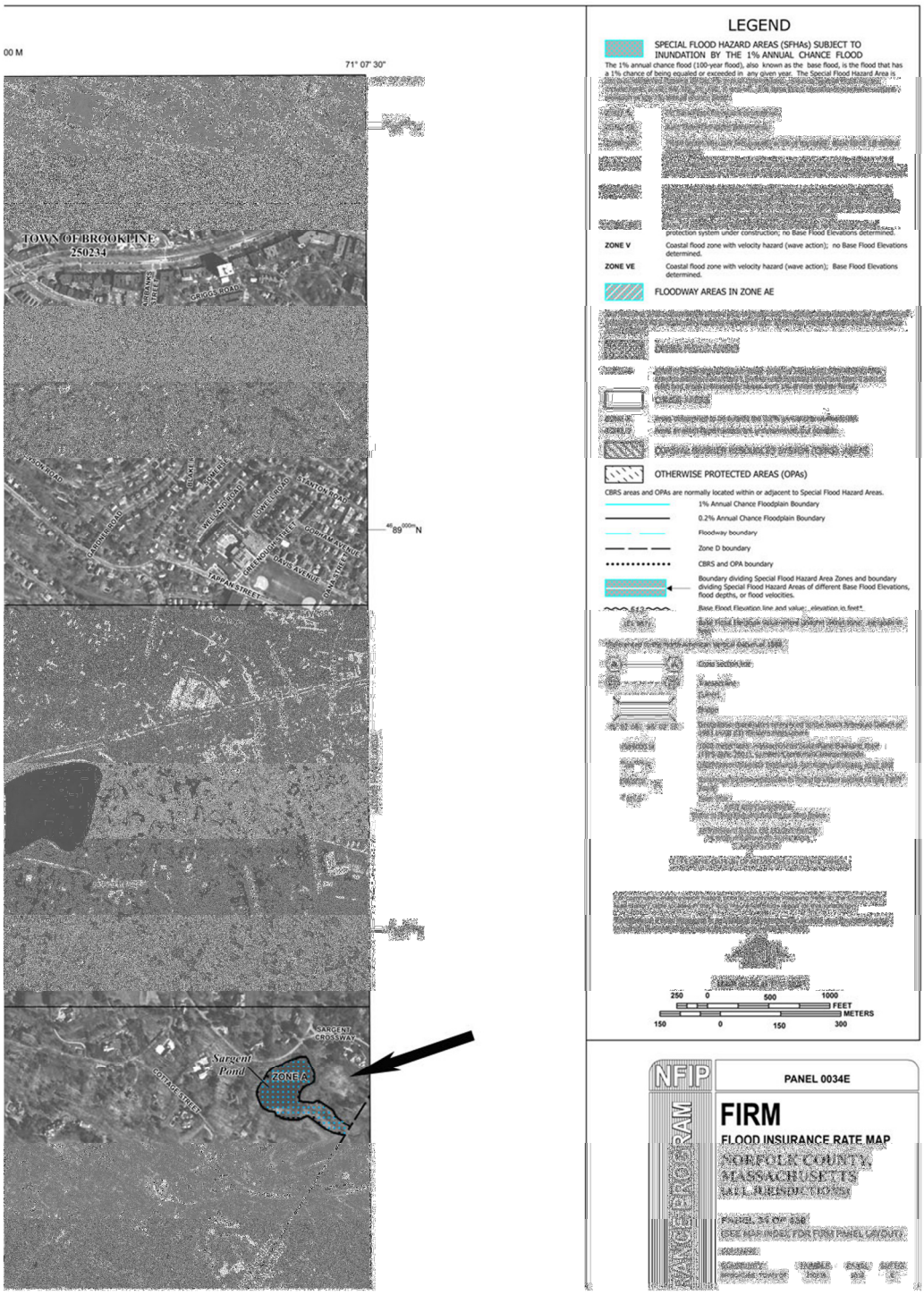
a. designed and maintained for recreational use, it may be counted up to 50 percent of the usable open space requirement, provided that for every two percent counted toward that requirement an additional one percent of landscaped open space, beyond that required by **Table 5.01**, shall be provided at ground level.

2. To amend the Zoning Map by replacing the existing Floodplain Overlay District with the maps defined in section 4.10.4.a. above and copied below (note that only the FIRM panels with areas in the Floodplain Overlay District are copied below.)

3. To amend Use 49A in Table 4.07 of the Zoning Bylaw as follows:

"49A. In locations subject to periodic or occasional flooding by water from streams or brooks, including but not limited to the flood hazard district which is defined as all areas ~~**designated as**~~ **in the Floodplain District Boundaries in 4.10.4.a.** ~~**flood hazard areas (Zones A, AE A8) in the H.U.D. Flood Insurance Rate Maps Study, Town of Brookline, Norfolk County, Massachusetts, November, 1976, including Maps H and I (l-l0) dated May 2, 1977, and revised November 28, 1980**~~, any structure erected or any filling undertaken in such manner as to reduce or impede the run-off of flood waters to an extent that would increase the 100 year flood elevation or the hazard of flood damage (See under 49B.) Please refer to §4.10, Floodplain Overlay District, of the Zoning Bylaw for flood hazard requirements."

or act on anything relative thereto.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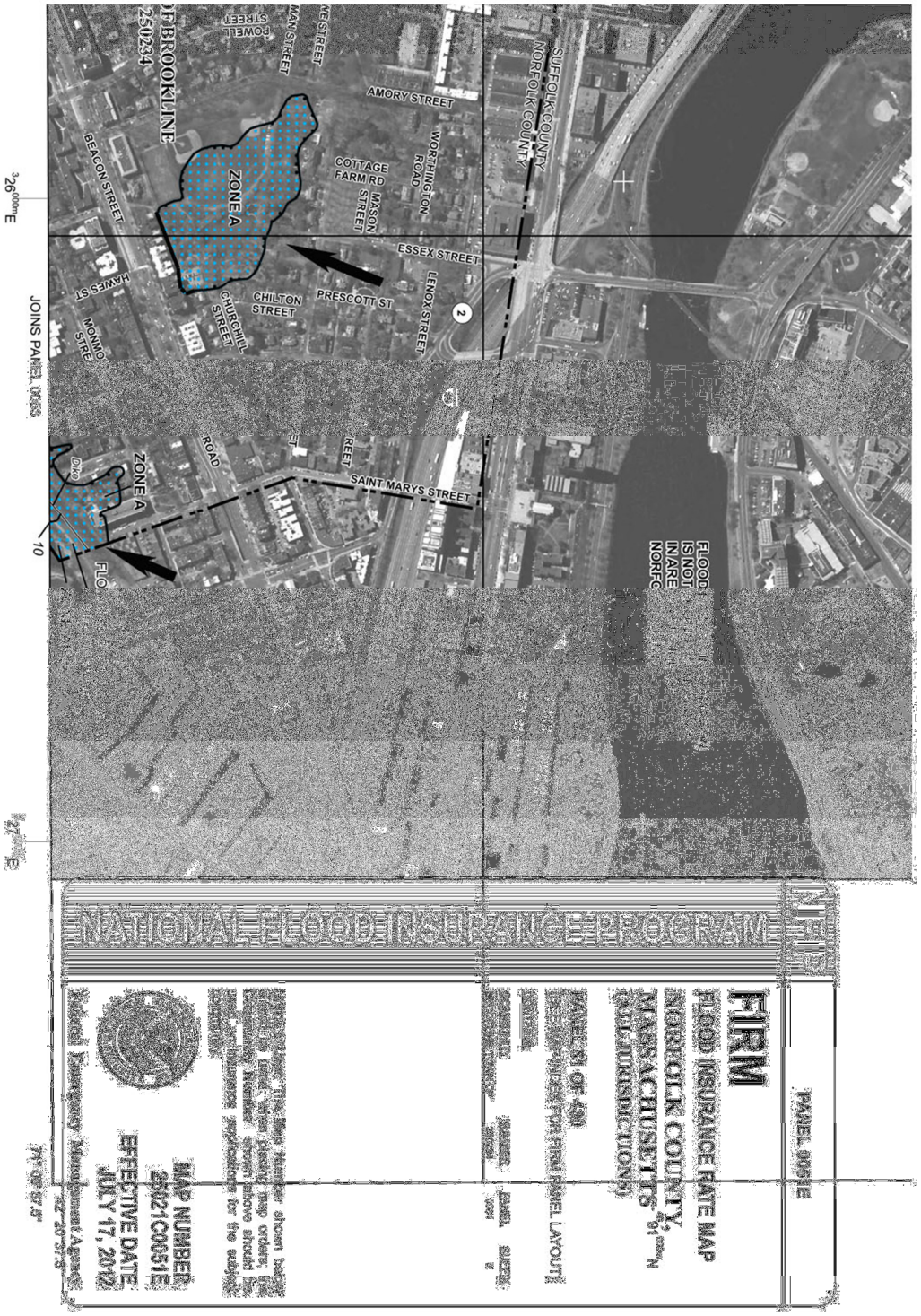
LEGEND
SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD
The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is
protection system under construction; no Base Flood Elevations determined.
ZONE V
Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
ZONE VE
Coastal flood zone with velocity hazard (wave action); Base Flood Elevations determined.
FLOODWAY AREAS IN ZONE AE
OTHERWISE PROTECTED AREAS (OPAs)
CBRS areas and OPAs are normally located within or adjacent to Special Flood Hazard Areas.
1% Annual Chance Floodplain Boundary
0.2% Annual Chance Floodplain Boundary
Floodway boundary
Zone D boundary
CBRS and OPA boundary
Boundary dividing Special Flood Hazard Area Zones and boundary dividing Special Flood Hazard Areas of different Base Flood Elevations, flood depths, or flood velocities.
250 0 500 1000 FEET
150 0 150 300 METERS
NFIP
PANEL 0034E
FIRM
FLOOD INSURANCE RATE MAP
NORFOLK COUNTY, MASSACHUSETTS


SUFFOLK COUNTY
NORFOLK COUNTY
AMORY STREET
WORTHINGTON ROAD
COTTAGE FARM RD
MASON STREET
ESSEX STREET
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PRESCOTT ST
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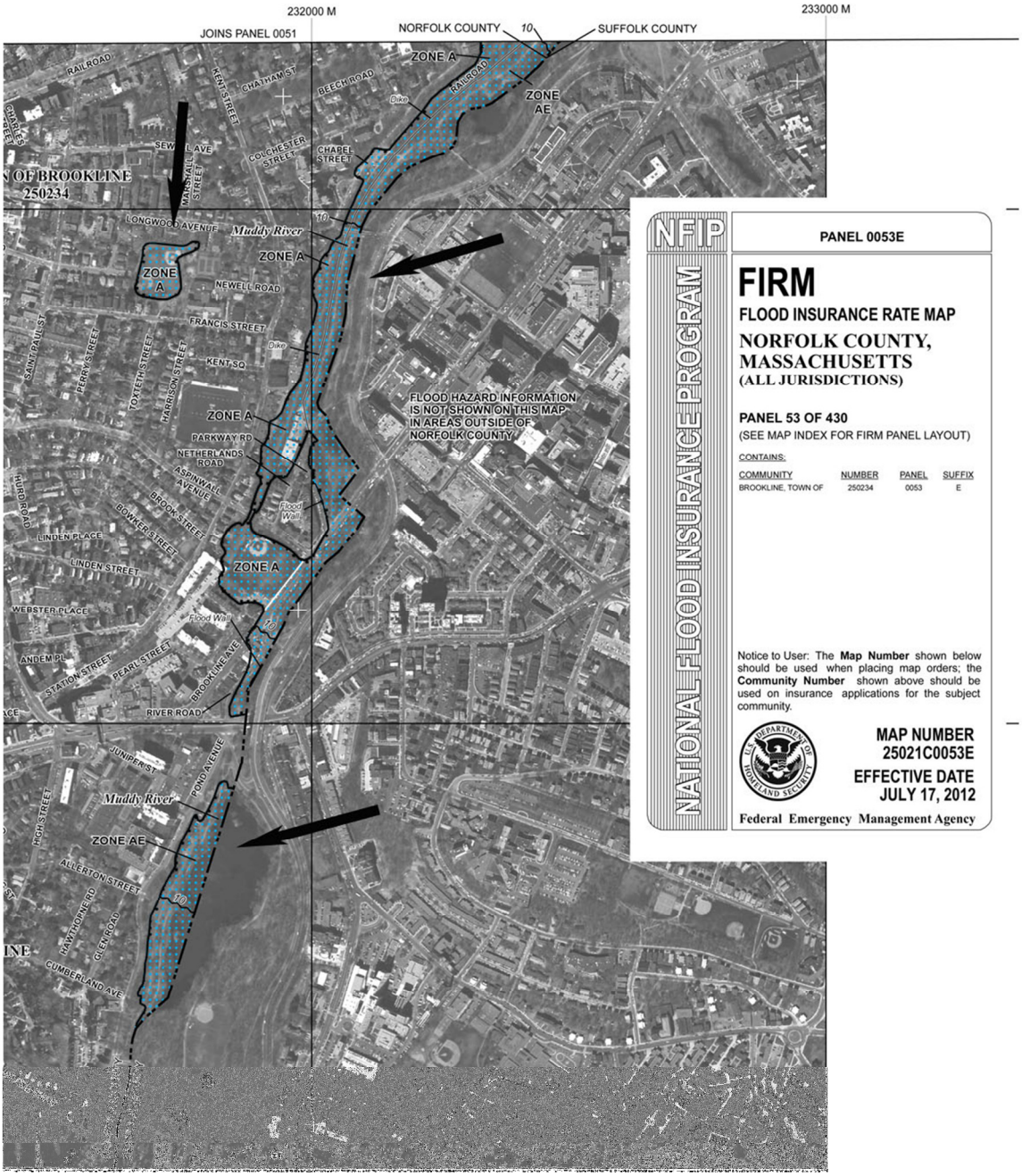
CHURCHILL STREET
ZONE A
BEACON STREET
HAWES ST
POWELL STREET
FLOOD IS NOT IN ARE NORFC
SAINT MARYS STREET
ZONE A
JOINS PANEL 0005
NATIONAL FLOOD INSURANCE PROGRAM
FIRM
FLOOD INSURANCE RATE MAP
NORFOLK COUNTY, MASSACHUSETTS
(AND INCORPORATED AREAS)
PANEL 31 OF 450
MAP NUMBER
25021C0031E
EFFECTIVE DATE
JULY 17, 2012
Federal Emergency Management Agency


232000 M
233000 M
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SUFFOLK COUNTY
ZONE A
ZONE AE
Muddy River
FLOOD HAZARD INFORMATION IS NOT SHOWN ON THIS MAP IN AREAS OUTSIDE OF NORFOLK COUNTY
NFIP
NATIONAL FLOOD INSURANCE PROGRAM
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FIRM
FLOOD INSURANCE RATE MAP
NORFOLK COUNTY, MASSACHUSETTS
(ALL JURISDICTIONS)
PANEL 53 OF 430
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)
CONTAINS:
COMMUNITY NUMBER PANEL SUFFIX
BROOKLINE, TOWN OF 250234 0053 E
Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.
MAP NUMBER
25021C0053E
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Federal Emergency Management Agency

PETITIONER'S ARTICLE DESCRIPTION

The Town's Floodplain Overlay District was created in response to a federal requirement outlined in Paragraph 60.3(c) of the National Flood Insurance Program regulations (44 CFR 59, etc.) in order to allow Town residents to obtain flood insurance. The existing Floodplain Overlay District is based on floodplain maps created in 1980. Over the past few years, FEMA has been updating the flood maps for Norfolk County and new maps are scheduled to go into effect on July 12, 2012. These revisions, developed in consultation with FEMA and the state Department of Conservation and Recreation (DCR), update the map references in the Floodplain Overlay District and also update some of the language in Section 4.10.

Many of the "panels" – or maps – referenced in the new language are panels that do not have any areas within the Floodplain Overlay District. On the advice of DCR, these panels are referenced in the bylaw as well as those with areas within the Overlay, so that the entire town has FIRM references in the Zoning Bylaw. In any case, there are few, if any, changes in Brookline between the earlier flood maps and the new ones. The Town is simply being updated as part of an overall update of Norfolk County.

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RECOMMENDATION OF THE ZONING BY-LAW COMMITTEE

New federal flood plain maps are designed to go into effect on July 17, 2012. The Town's by-laws must be brought into conformity with federal requirements by that date in order for property in the Town to continue to be eligible for the National Flood Insurance Program. The Planning and Community Development Director contacted the Federal Emergency Management Agency (FEMA) as to how to amend the Town's by-laws to ensure ongoing compliance with Flood Insurance Program requirements. FEMA referred the Director to the state Department of Conservation and Recreation, where a Flood Hazard Mapping Coordinator in DCR's Flood Hazard Management Program provided redrafted language for the Town's Zoning By-law. Article 15 incorporates that redrafted language. The Committee recommends favorable action on Article 15.

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PLANNING BOARD REPORT AND RECOMMENDATION

This article has been submitted by the Department of Planning and Community Development. The purpose of the article is to amend the references in Brookline's Zoning By-Law, Section 4.10, Floodplain Overlay District, and the accompanying Floodplain Overlay District map, to be consistent with revised Norfolk County floodplain maps and terminology.

The minor changes to our floodplain map boundaries are tied to changes in Norfolk County's maps that will take effect on July 17, 2012. If we did not change our maps, the Town has been informed by the federal government that Brookline residents might no longer be able to take advantage of the federal flood insurance program. Most of the floodplain zones in Brookline are located on parkland, and there are very few, if any,

proposals for development within the floodplain zones. If development was proposed in this overlay, it would also come under the jurisdiction of our local wetlands bylaw administered by the Brookline Conservation Commission.

The purpose of the Floodplain Overlay District is to outline encouraged uses and require all uses in the floodplain to get a Special Permit. That requirement creates a forum to allow the Town to determine if uses and buildings are consistent with state building code and other state requirements for building within a 100-year floodplain (Zones A and AE). The language changes in the Bylaw were drafted in consultation with the Department of Conservation and Recreation to update the terminology used. However, the basic requirements do not change. While the language refers to several "panels" of maps, only the ones in which there are Zones A and AE are shown in the warrant article, simply to avoid printing maps that are unaffected. The other panels are referred to in case new areas of flooding are identified in them in future years. While there have been some very minor revisions to the flood plain boundaries, these alterations appear to mainly affect only Town-owned properties.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 15.

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## SELECTMEN'S RECOMMENDATION

Article 15 was submitted by the Department of Planning and Community Development to update the Town's Floodplain Overlay District by referring to the new floodplain maps taking effect this summer. The minor changes to the Town's floodplain map boundaries are tied to changes in Norfolk County's maps that will take effect on July 17, 2012. The Town has been informed by the federal government that we must adopt regulations tied to the new maps in order for Brookline residents to be able to continue to take advantage of the National Flood Insurance Program. Most of the floodplain zones in Brookline are located on parkland, and there are very few proposals for development within the floodplain zones. One option would have been to update the Town's local option wetlands by-law. However, given the timeframe and the fact that the Town already has an effective Floodplain Overlay District in the Zoning By-Law, updating the Floodplain Overlay District seems most prudent at this time.

The Board of Selectmen sees no drawbacks to this amendment and the significant benefit of allowing property owners in Town to continue to access the National Flood Insurance Program. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 10, on the motion offered by the Advisory Committee.

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 15 asks that the Town amend its Zoning Bylaw, 4.10 – Floodplain Overlay District. The Floodplain map must be updated to comply with Federal Regulations.

DISCUSSION:
The general purpose of defining the Floodplain Overlay District is to effectively protect the water resources of the Town with zoning provisions that regulate floodplains in a manner that, at a minimum, meets the requirements of the Federal Emergency Management Administration (FEMA) for their National Flood Insurance Program (NFIP).Specifically, the purposes of the Floodplain Overlay District are to:

a. Ensure public safety through reducing the threats to life and personal injury;

b. Eliminate hazards to emergency response officials;

c. Prevent the occurrence of public emergencies resulting from water quality contamination and pollution due to flooding;

d. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;

e. Eliminate costs associated with the response and cleanup of flooding conditions;

f. Reduce damage to public and private property resulting from flooding waters.

This update increases the Zone C area and the designated area of floodplain (Zone A, AE) is decreased. This is a benefit to the residences of the town. And, It reduces the need to buy floodplain insurance, helping some borrowers with financing or refinancing their residences based on location.

RECOMMENDATION:
This article is a required technical update. The Advisory Committee, by a vote of 21-0, recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town amend its Zoning By-Law as follows:

1. To replace the existing Section 4.10 with the following (additions in bold and underlined, deletions crossed out and in bold):

**"§4.10 - FLOODPLAIN OVERLAY DISTRICT**

1. *Purpose*
   The general purpose of this section is to effectively protect the water resources of the Town with zoning provisions that regulate floodplains in a manner that, at a minimum, meets the requirements of the Federal Emergency Management Administration (FEMA) for their National Flood Insurance Program (NFIP). Specifically, the purposes of the Floodplain Overlay District are to:

a. Ensure public safety through reducing the threats to life and personal injury;

b. Eliminate hazards to emergency response officials;

c. Prevent the occurrence of public emergencies resulting from water quality contamination and pollution due to flooding;

d. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;

e. Eliminate costs associated with the response and cleanup of flooding conditions;

f. Reduce damage to public and private property resulting from flooding waters.

2. *Establishment and Applicability*

a. Establishment—There is hereby established a Floodplain Overlay District which shall be governed by the regulations specified in this section.

b. Applicability—No structure or building shall be erected, constructed, expanded, substantially improved, or moved and no earth or other materials shall be dumped, filled, excavated, transferred, or otherwise altered in the Floodplain Overlay District unless a special permit is duly granted by the Board of Appeals.

c. General Exemptions—For the purposes of this Section, a special permit shall not be required for any demolition or other activity that reduces impervious surface on a lot within the Floodplain Overlay District.

d. Setback Exemptions—Any required flood water retention systems or related facilities may be permitted to extend into required yard setbacks if deemed appropriate by the Board of Appeals.

e. Emergency Repairs—The special permit required in this Section shall not apply to emergency repairs or projects necessary for the protection of the health, safety or welfare of the general public which are to be performed or which are ordered to be performed by a Town department, or the commonwealth, or a political subdivision thereof. In no case shall any filling, dredging, excavating, or otherwise extend beyond the time necessary to abate the emergency.

3. *Definitions*

The following definitions specifically refer to the provisions of this section. The definition of any term not provided in this subsection shall be that which can be found in a generally acceptable dictionary of the English language.

a. AREA OF SPECIAL FLOOD HAZARD—Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A **or AE**.

b. BASE FLOOD—Means the flood having a one percent chance of being equaled or exceeded in any given year.

c. DEVELOPMENT—Means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

d. DISTRICT—Means floodplain district.

e. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)—Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

~~**f. FLOOD BOUNDARY AND FLOODWAY MAP—Means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM).**~~

~~**g. FLOOD HAZARD BOUNDARY MAP (FHBM)—Means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A.**~~

**f.** FLOOD INSURANCE RATE MAP (FIRM)—Means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**g.** FLOODWAY—Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**h.** LOWEST FLOOR—Means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

**i.** NFIP—National Flood Insurance Program administered by FEMA.

**j.** NEW CONSTRUCTION—Means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

For the purpose of determining insurance rates, New Construction means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

**k.** ONE-HUNDRED-YEAR FLOOD—See BASE FLOOD.

**l.** REGULATORY FLOODWAY—See FLOODWAY.

**m.** SPECIAL FLOOD HAZARD AREA—Means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A.

**n.** START OF CONSTRUCTION—Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, or floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**o.** STRUCTURE—Means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. STRUCTURE, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the terms includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

**p.** SUBSTANTIAL DAMAGE—Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**q.** SUBSTANTIAL IMPROVEMENT—Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

**r.** ZONE A—Means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local or other data.

**s. ZONE AE—Means the 100-year floodplain where the base flood elevation has been determined.**

**t. ZONE X**~~**ZONES B AND C**~~—Are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. **Zone X replaces Zones B and C on new and revised maps.**

4. *Floodplain District Boundaries and Base Flood Elevation and Floodway Data*

a. Floodplain District Boundaries
The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated **as Zone A or AE on the Norfolk County Floor Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Brookline are panel numbers 25021C0032E, 25021C0033E, 25021C0034E, 25021C0041E, 25021C0042E, 25021C0051E, and 25021C0053E dated July 17, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, Conservation Commission and Town Engineer. The existing flood insurance maps for the Town of Brookline, dated November 28, 1980, shall remain in effect until July 17, 2012.** ~~**on the Brookline Flood Insurance Rate (FIRM) I (1-10) and Flood Hazard Boundary Map H (1-10) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated November 28, 1980 as Zone "A" which indicates the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance study booklet date (FIS dated November 1976). The FIRM and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission, and the Town Engineer.**~~

b. Base Flood Elevation and Floodway Data

1) Floodway Data
In Zone "A", along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2) Base Flood Elevation Data

Base flood elevation data is required for any subdivision proposal, any new building or development, and any other development that would result in additional impervious surface within any floodplain overlay district.

5. *Notification of Watercourse Alteration*
The Town Clerk, in consultation with the Building Commissioner and Town Engineer, shall notify, in a riverine situation, the following agencies of any alteration or relocation of a watercourse:

a. Adjacent Communities

~~**b. Bordering Communities**~~

**b. Massachusetts Department of Conservation and Recreation** ~~**Massachusetts Office of Water Resources**~~, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104

**c.** NFIP Program Specialist, FEMA Region I, **99 High Street, 6th Floor, Boston, MA 02110.**~~**Rm. 462, J.W. McCormack Post Office & Courthouse, Boston, MA 02109**~~

6. *Use Regulations*

a. Reference to Existing Regulations
The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with M.G.L., Chapter 131, Section 40 and with the following:

1) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR~~**3107.0, "Flood Resistant Construction"**~~);

2) Wetlands Protection Regulations, Department of Environmental Protection (DEP), (currently 310 CMR 10.00);

3) Inland Wetlands Restriction, DEP (**currently 310 CMR 13.00** ~~**302 CMR 6.00**~~);

4) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

5) Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

7. *Encouraged Uses*

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

a. Urban agricultural uses such as urban farming, horticulture, etc.

b. Nursery uses.

c. Outdoor recreational uses, including fishing, boating, play areas, etc.

d. Conservation of water, plants, wildlife.

e. Wildlife management areas, foot, bicycle, and/or horse paths.

f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

g. Buildings lawfully existing prior to the adoption of these provisions.

*8. Procedures*

a. Application for a special permit shall be made on a form prescribed by the Board of Appeals. In addition to information generally required for such a submittal, the applicant shall also present the following:

1) a detailed site plan drawn to a scale of one inch equals twenty (20) feet showing the elevation and design of flood water retention systems as required by applicable law;

2) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

3) base flood elevation data, where the base flood elevation is not provided on the FIRM;

4) certification and supporting documentation by a Massachusetts registered professional engineer demonstrating that such encroachment of the floodway shall not result in any increase in flood levels during the occurrence of the 100-year flood; and

5) four (4) copies of all application materials.

b. Upon receipt of the application and development plans, the Town Clerk shall transmit copies of the plans to the Conservation Commission, Town Engineer, and Board of Appeals. Within forty-five (45) days of receipt of the plans, the Conservation Commission and the Town Engineer shall review said plans and submit their respective reports and recommendations to the Board of Appeals.

The Board shall not render any decision on an application for a special permit for development in the Floodplain Overlay District until said reports have been received and considered or until the forty-five (45) day period has expired without the receipt of such report, whichever is earlier.

c. In the course of their standard review and approval of subdivisions, the Planning Board shall assure that:

   1) such subdivisions minimize flood damage;

   2) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

   3) adequate drainage is provided to reduce exposure to flood hazards.

d. There shall be established a "routing procedure" which will circulate or transmit copies of the development plan to the appropriate review agencies and boards for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

9. *Criteria*

The Board of Appeals may grant a Special Permit for development in the Floodplain Overlay District if the Board finds that such development has met all of the following criteria in addition to other criteria required for the granting of a special permit:

a. No filling or other encroachment shall be allowed in Zone "A" areas or in the floodway which would impair the ability of these special flood hazard areas to carry and discharge flood waters, except where such activity is fully offset by stream improvements such as, but not limited to, flood water retention systems as allowed by applicable law.

b. Displacement of water retention capacity at one location shall be replaced in equal volume at another location on the same lot, on an abutting lot in the same ownership, on a noncontiguous lot in the same ownership, or in accordance with paragraphs 1) through 3) below:

   1) All flood water retention systems shall be suitably designed and located so as not to cause any nuisance, hazard, or detriment to the occupants of the site or abutters. The Board of Appeals may require screening, or landscaping of flood water retention systems to create a safe, healthful, and pleasing environment.

   2) The proposed use shall comply in all respects with the provision of the underlying zoning district, provisions of the State Building Code, State Inland Wetland Act, and any other applicable laws.

   3) Any development activity requiring a special permit from the Board of Appeals under other provisions of this Zoning By-law shall incorporate the

requirements of this Section within the scope of that special permit and shall not require separate application to the Board of Appeals.

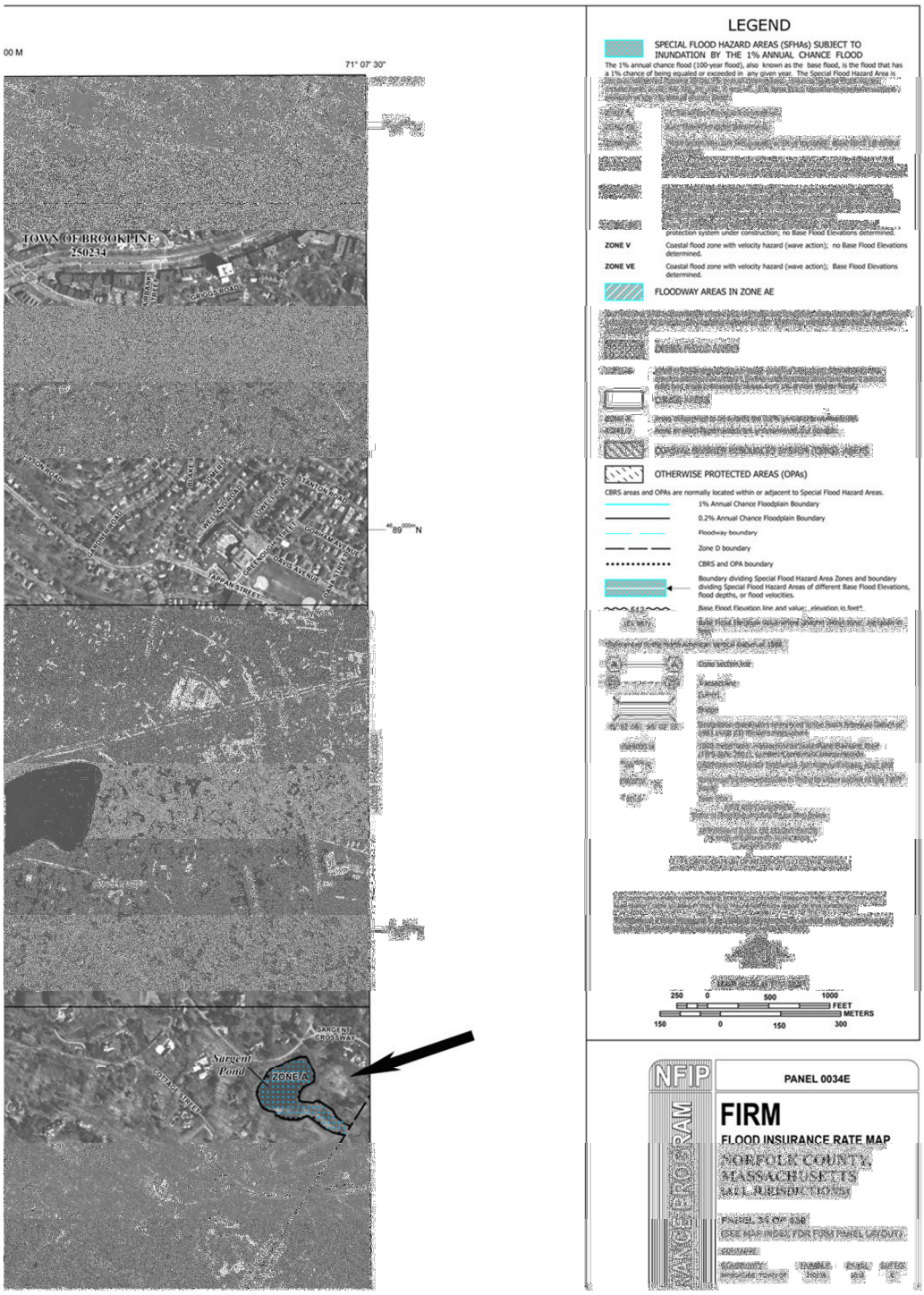
a. designed and maintained for recreational use, it may be counted up to 50 percent of the usable open space requirement, provided that for every two percent counted toward that requirement an additional one percent of landscaped open space, beyond that required by **Table 5.01**, shall be provided at ground level.

2. To amend the Zoning Map by replacing the existing Floodplain Overlay District with the maps defined in section 4.10.4.a. above and copied below (note that only the FIRM panels with areas in the Floodplain Overlay District are copied below.)

3. To amend Use 49A in Table 4.07 of the Zoning Bylaw as follows:

"49A. In locations subject to periodic or occasional flooding by water from streams or brooks, including but not limited to the flood hazard district which is defined as all areas ~~**designated as**~~ **in the Floodplain District Boundaries in 4.10.4.a.** ~~**flood hazard areas (Zones A, AE A8) in the H.U.D. Flood Insurance Rate Maps Study, Town of Brookline, Norfolk County, Massachusetts, November, 1976, including Maps H and I (l-l0) dated May 2, 1977, and revised November 28, 1980**~~, any structure erected or any filling undertaken in such manner as to reduce or impede the run-off of flood waters to an extent that would increase the 100 year flood elevation or the hazard of flood damage (See under 49B.) Please refer to §4.10, Floodplain Overlay District, of the Zoning Bylaw for flood hazard requirements."

or act on anything relative thereto.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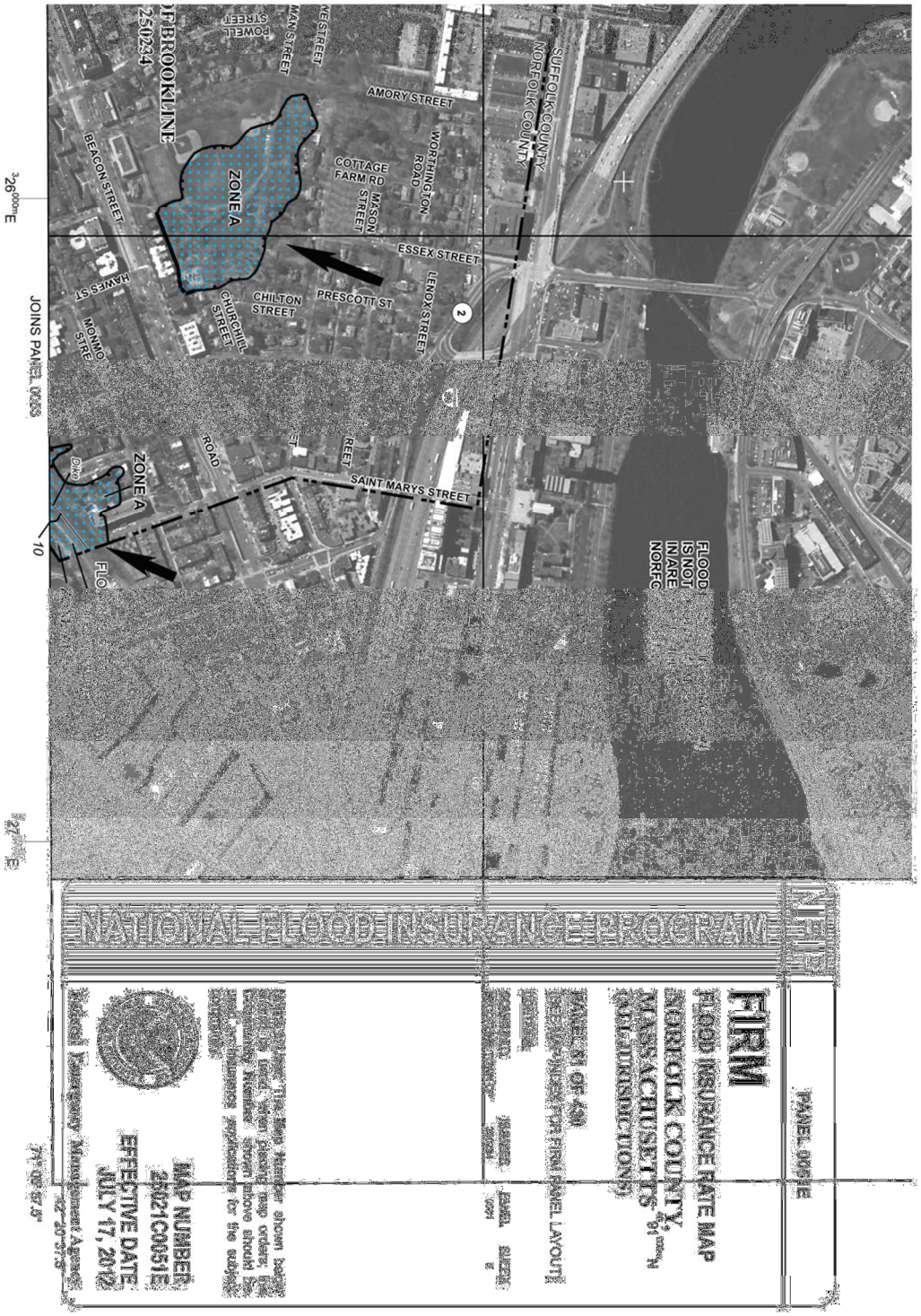
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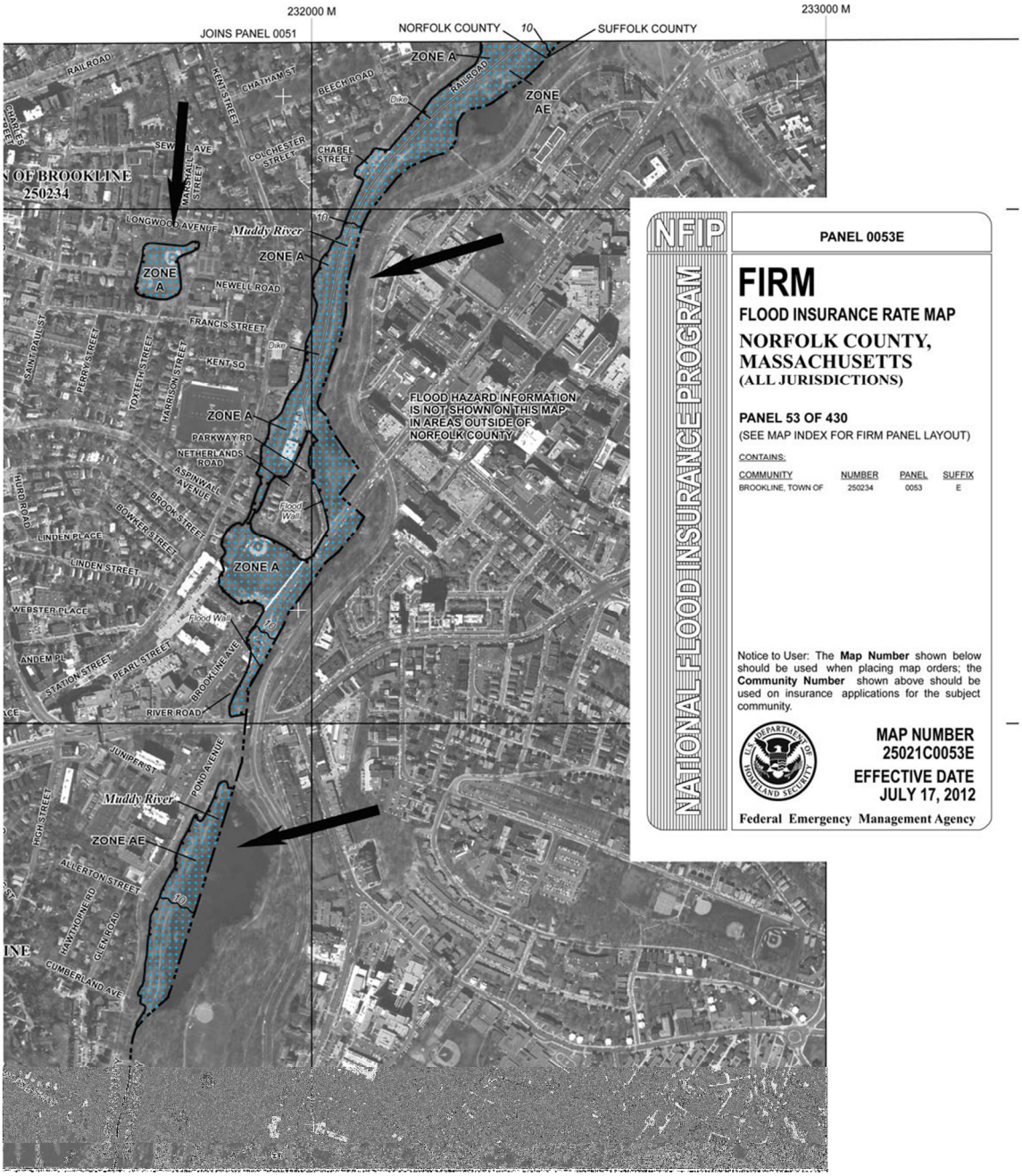
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***XXX***

ARTICLE 16

SIXTEENTH ARTICLE
Submitted by: Michael Oates, Town Meeting Member, Precinct 12

To see if the Town will amend the Zoning By-law as follows:

Replace paragraphs 1 and 2 of **§5.08 – EXCEPTIONS TO DIMENSIONAL REQUIREMENTS FOR USES 9 & 10** as follows:

~~1. The floor area ratio requirements as applied to Uses 9 and 10 listed in **§4.07** shall be less restrictive than as specified in **Table 5.01** in the following respects:~~
   ~~a. Where several lots in the same ownership and also in the same use district are separated from each other only by an adjacent street or intersecting adjacent streets, the area of all such lots may be aggregated in calculating floor area ratio.~~
   ~~b. The floor area ratio shall be increased by one per cent for each 2,000 square feet of lot area exceeding the lot size minimum for the district under consideration, up to a maximum of 65 percent.~~

~~**2.** Under a special permit the Board of Appeals may permit further modifications in the dimensional requirements specified in **Article V** as applied to Uses 9 and 10 to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.~~

1. The restrictions on floor area ratio maximum, height maximum, minimum yard setbacks (front, rear, side), and open space (landscape and usable) as specified in **Table 5.01** shall not apply to Uses 9 and 10 listed in **§4.07**.

Replace paragraph 4(c) of **§6.02 – OFF-STREET PARKING SPACE REGULATIONS** as follows:

~~c. Under a special permit the Board of Appeals may permit modification in the requirements specified in this Article as applied to Use 10 to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.~~

c. The requirements specified in **Article VI** shall not apply to Use 10 listed in **§4.07**.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This Warrant Article would eliminate certain regulations on projects involving Dover Amendment-covered institutions, including schools and religious organizations.

Specifically the article would eliminate dimensional restrictions and parking requirements. Removing these regulations will bring our zoning by-laws in line with de facto town practices.

The Dover Amendment (MGL Chapter 40A Section 3) was enacted in 1950 in response to exclusionary "snob" zoning in a case that attempted to restrict a religious use in the town of Dover. It was broadened in 1956 to include public educational uses. The amendment allows these institutions to bypass most local zoning by-laws.

The Dover Amendment permits a municipality, at its discretion, to enact "reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements."[1] In 1965, following a Dover Amendment zoning dispute with Sisters of the Holy Cross (then Cardinal Cushing College, now Newbury College), Brookline Town Meeting enacted by-law §5.08 to codify dimensional and other restrictions for these institutions. The intention was to "relax limitations on religious and educational uses sufficiently to earn court approval if challenged", satisfying Dover Amendment case law.[2] In deference to the law, the regulations are substantially more generous than those for any other use and can be exceeded by special permit when meeting a standard of "general harmony".[3]

For a long time, this by-law worked. The town was able to negotiate and meet the needs of both institutions and neighborhoods. But almost 50 years later, Brookline is a more densely developed town, and institutional needs are encroaching on limited open space and on neighborhoods. While other towns continue to fight the Dover Amendment, Brookline now embraces it. In two recent projects the town has ignored these zoning by-laws in favor of institutional expansion.

In the case of Runkle School, the Zoning Board of Appeals used the Dover Amendment to nullify by-laws §5.08 and §6.02. Following the ZBA decision, Town Counsel's office explained the ruling: by-law §5.08 contains a "general harmony" provision, but the Dover Amendment waives that zoning requirement.[4] In effect Town Counsel's opinion means §5.08 and §6.02 do not qualify as reasonable regulations under the Dover Amendment and need not be followed by the town. In making its decision, the Chair of the ZBA stated "I, for one, am convinced that the needs of the Runkle School for an addition outweighs the municipal needs" to hold to local zoning laws.[5]

In the case of The Church of Jesus Christ of Latter-day Saints, the Zoning Board of Appeals, again citing the Dover Amendment, ignored dimensional requirements in the church's FAR calculation. The board nullified the double-height space calculation for FAR[6], and also subtracted parking garage lobby space from the FAR calculation. The

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[1] Massachusetts General Laws Chapter 40A Section 3 (the "Dover Amendment").
[2] Combined Reports of the Selectmen and Advisory Committee, December 1965, article 3 explanation.
[3] Brookline Zoning By-law §5.08, §6.02.
[4] Minutes of the Board of Selectmen executive session held on February 9, 2010.
[5] BrooklineTAB, Februrary 4, 2010, *Brookline ZBA approves Runkle expansion; neighbors mull appeal.*
[6] §2.07 of the Zoning By-law defines "Gross Floor Area" and has a provision that increases the floor area for interior spaces that are more than 12 feet in height. The calculation attempts to capture excess bulk of double-height spaces not otherwise accounted for in the FAR calculation.

resulting reduction in square footage provided the basis for their approval under a special permit.

Being a public project, the Runkle School in particular caused much division in the surrounding neighborhood. Many neighbors supported the town's efforts to avoid these zoning by-laws, believing no restrictions should apply to public schools. Others sought protection under the same by-laws, holding onto an expectation that the town enforces its own zoning rules. Everyone spent significant time, energy, and money over the question of general harmony and what's required of Dover-covered institutions today.

In each of these cases, neighbors felt the final designs did not meet the general harmony provisions of the by-laws. But town boards and commissions felt that institutional needs were more important. Citing the Dover Amendment, they ignored our zoning rules and allowed the projects to move forward as proposed.

Ultimately, the question arises, should we have by-laws that the town does not follow and, indeed, spends tax dollars to circumvent. The town shouldn't avoid its own rules, and certainly shouldn't spend taxpayer money to do so. To avoid this contention in the future, Town Meeting should decide whether the restrictions in by-laws §5.08 and §6.02 remain applicable and still qualify as reasonable regulations.

Eliminating the regulations will enable Dover-covered institutions to bypass zoning rules without restriction, allowing them to focus on their missions. It will reset residents' expectations by permanently eliminating the requirement for "general harmony" with neighbors. It will codify the deference already given these projects by town departments, boards and commissions, aligning the rules with the town's current practices.

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RECOMMENDATION OF THE ZONING BY-LAW COMMITTEE

This article asserts that Town boards and commissions ignored provisions of the Zoning By-law when approving the Runkle School project and the development on Route 9 proposed by the Church of Jesus Christ of Latter-day Saints. Both projects were eligible for protection under the Dover Amendment, which provides certain relief from zoning by-laws for religious institutions and for and governmental and non-profit educational developments.

There is currently language in the Zoning By-law stating that modification of floor area and parking requirements for Dover Amendment projects should be allowed "to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity." The proponent of Article 16 asserts that the requirement of "general harmony" with neighbors was ignored and suggests that Town Meeting should confront the issue of whether that language still remains applicable and qualifies as a reasonable regulation. The language, proponent asserts, has been ignored in practice and the expectations of residents should be "reset" to acknowledge the reality.

The Zoning By-law Committee recommends that the substance of Article 16 not be enacted. The Department of Planning and Community Development presented a memorandum (see "Background Information" below) indicating circumstances in which dimensional and parking requirements were useful in dealing with projects. While Article 16 was designed to spark discussion of the Town's enforcement of the Zoning By-law, actual passage of the article would in fact entirely eliminate the directive for the Planning Board and Zoning Board of Appeals to consider harmony with the neighborhood.

The Committee did, however, believe that it would be valuable for the Committee to consider recent case law under both the Dover Amendment and Chapter 40B of the General Laws to determine what type of regulation might be permissible under the case law, what the criteria can and should be for such projects, and whether the Town's By-laws can and should be redrafted or, in fact, tightened to mitigate impacts on abutters while still complying with the Dover Amendment and Chapter 40B.

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BACKGROUND INFORMATION RELATED TO BOARD OF APPEALS REVIEW OF EDUCATIONAL AND RELIGIOUS USES

MGL Chap 40A, Sec. 3 of the State Zoning Act is referred to as the Dover Amendment and prohibits restricting the location of any non-profit educational and religious uses in any zoning district of the Town. However, it does allow the Town to impose "reasonable regulations concerning bulk and height of structures, [in] determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements". To this end, the Brookline Zoning By-Law includes two sections related to non-profit educational and religious uses and allows reasonable deviations from requirements for lot size, floor area ratio, height, yard, and open space set in Sec. 5.01, Table of Dimensional Requirements and parking as set in Section 6.02, Table of Off-Street Parking Requirements.

The existing Sec. 5.08.1(a) addresses floor area relief and acknowledges that many institutional uses have campuses divided by streets. It thus allows the aggregation of the separate lots in calculating the allowed floor area for the total area and, by special permit, allows an increase in the floor area ratio by one per cent for each 2,000 s.f. of lot area above the required minimum lot size. Sec. 5.08.2 addresses all other dimensional requirements and Section 6.02.4.c. parking requirements and both allow, by special permit, modifications to these requirements to the extent necessary to allow reasonable development in general harmony with the neighborhood.

In the Oates proposed amendment, these sections are eliminated and replaced with language that waives all floor area, height, yard setback and open space requirements per Sec. 5.01 and all parking requirements per Section 6.02, thus providing no restrictions for Uses 9 and 10 related to floor area or dimensional restrictions and for Use 10, no parking requirements. Use 9 (religious uses) are not currently required by the Zoning By-Law to provide off-street parking.

In the past, the Planning Board and Board of Appeals have reviewed many requests from both educational and religious institutions for dimensional and parking relief. Although design review under Section 5.09 was disallowed for Dover Amendment cases by a court decision (actually involving the Cardinal Cushing College in Brookline), most institutions are happy to incorporate design recommendations during the approval process. The requirement for a special permit to obtain dimensional and/or parking relief from the Board of Appeals is extremely beneficial to the Town as it requires notification to abutters and Town Meeting members and provides an opportunity for input from the public, the Planning Department staff and the Boards. The following is a partial list of institutions that went through the Board of Appeals approval process and accepted conditions attached to the relief that was granted. Significant conditions included requirements for increased landscaping to screen new structures from abutters and improved design for pedestrian and vehicular circulation and parking.

**Mormon Meeting House – 630 Boylston Street**
ZBA Decision #2010-0006 – April 15, 2010
Proposal: Construct a 22,000 s.f. meeting house with underground parking for 150 vehicles. The proposal required special permits under Section 5.09, Sections 5.08.2, 5.50 & 5.43 [Exceptions to dimensional requirements for Uses 9 &10 to allow for a foundation wall in excess of 3' in height within the front yard setback], and Section 6.06, Table 6.02 [variance to waive requirement for one loading bay].

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Proposal: Construct a 53,200 square foot science building with observatory requiring a special permit for height [allowed 35', proposed 69'] under Sections 5.30 and 5.08(b).

ZBA Decisions #3326 & 3326A – 1966-1997
Proposal: Construct a two story addition on an existing three story academic building requiring a special permit for height under Sections 5.30 and 5.08(b) . The subsequent decision was for a one-year time extension and modification to build one story instead of two. One story was built in 2000.

**Maimonides – 34 Philbrick Road**
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Proposal: Construct 9 parking spaces on campus requiring dimensional relief under Sections 6.04.2.d, 6.04.5.c.1, 6.04.4.f, 6.04.12 [all special permits] and a special permit under Section 8.02.2.

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Proposal: Construct a three-story school building with 16 classrooms and a garage with 29 parking spaces at 2 Clark Road requiring a special permit under Section 5.09. The decision was appealed in 1997 [Decision #3373], the appeal was denied.

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Proposal: Construct a new gymnasium, computer center, library, and 3 underground classrooms. A special permit under Section 5.09 and a variance under Section 6.11.a&d [to waive 17 parking spaces] were granted. Subsequent decisions include a modification

to reduce floor area [and therefore parking] and a second modification to include an 800 s.f. addition to the gymnasium.

ZBA Decision #2535 – August 3, 1982
Proposal: Construct two additional classrooms requiring the waiver of one parking space.

ZBA Decision # 2450 – March 6, 1981
Proposal: Upgrade play areas under Section 4.12 [change of nonconforming use], Section 4.30, Use 10 [special permit for school use within S or T zone] and Section 5.09.

**Lincoln School – 19 Kennard Road**
ZBA Decision #3103 – November 14, 1991
Proposal: Construct a new 81,640 s.f. school to serve 450 K-8 students. The building required special permits under Section 5.03 & 5.08(b) [Height: allowed 35', proposed 38.6'-51']; Section 5.40 [Side Yard Setback: required 15', proposed 11']; Section 6.11.d.3 [modification to required # of parking spaces to serve educational uses: 93 required, 73 proposed], Section 6.13.e.3.4 [front and side yard setback requirements for parking areas: required 30', proposed 9' in front and 6'-22' on side];

ZBA Decision # 1885 & 1885A – June 6, 1974 & April 3,1975
Proposal: Construct a 106,600 s.f. to serve 600 K-8 students. Under Section 5.08.a.2, a by-right FAR bonus up to 65% of the allowed GFA for educational uses was invoked [maximum allowed would have been 178-254 s.f.]. The building required special permits under Section 5.09, 5.08.b [modification of dimensional requirements for Uses 9 &10]; 5.30 [building height, allowed 35', proposed 52']; Section 6.11.3.d [required number of parking spaces 89, proposed 55]; Section 6.12.a.2 [to allow parking on a site within 400' of the proposed use]; and Section 6.13.e.3.2 [special permit for common drive]. Variances under 6.20.f [number of loading bays: required 3, proposed 2]; Section 6.21.a [design of loading bays: required 12'w x 30'l x 14'h, proposed 11'w x 30'l x 12'h] were also granted. This iteration of the building was never built because the referendum for funding was defeated at Town Meeting.

**Park School – 171 Goddard Avenue**
ZBA Decision #070012 – April 24, 2007
Proposal: Construct a 20,000 s.f., three-story rear addition, reconstruct a perimeter access road, and extend the parking lot within the front yard setback requiring special permits under Section 5.08.2 for height [allowed 35', existing 35', proposed 40'] and building rear yard setback [required 60', existing 56', proposed 29'9"], and under Section 5.43 for front yard setback for the parking [required 40', existing 15', proposed extension 20'10"]. The proposed complied with FAR [maximum 0.15, existing 0.13, proposed 0.148].

ZBA Decision #3331 – May 16, 1996
Proposal: Construct a three-story addition for a gymnasium, science labs and computer room and classroom space, requiring a special permit under Section 6.11.d.3 [allowed the Board of Appeals to waive parking and loading space requirements for educational uses] to reduce the required number of parking spaces and loading areas. The overall student body enrollment was not increasing.

ZBA Decision #3023 – June 13, 1990
Proposal: Construct a 52-car parking lot within the front yard [required 40', proposed 20'] requiring special permit under Section 5.43.

ZBA Decision #1669 – November 12, 1970
Proposal: Construct a 21-car parking lot within the front yard [required 30', proposed 18'] requiring a special permit under Section 5.43.

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## PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by citizen petition and proposes to eliminate all controls on the size of non-profit religious (Use #9) and educational institutions (Use #10) and requirements for off- street parking for non-profit educational uses. (Religious uses are not required to provide off-street parking.) It states that the dimensions required in Section 5.01, Table of Dimensional Requirements, related to floor area ratio, height, yard setbacks and open space will no longer apply to Uses 9 and 10, and neither will the off-street parking requirements found in Section 6.02, Table of Off-Street Parking Space Requirements apply to educational uses (Use #10). Since there would be no restrictions on Uses 9 and 10, the petitioner also proposes eliminating the available special permits and other flexible provisions in the By-Law, which provide institutions the right to request an alternate reasonable dimensional requirement by special permit.

MGL Chapter 40A, Sec. 3 of the State Zoning Act is referred to as the Dover Amendment and prohibits regulating or restricting the use of land or structures for non-profit educational or religious purposes in any zoning district of the Town. However, it does allow the Town to impose "reasonable regulations concerning bulk and height of structures, [in] determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements". To this end, the Brookline Zoning By-Law includes two sections related to non-profit educational and religious uses that allow reasonable deviations from requirements for lot size, floor area ratio, height, yard setbacks, and open space in Sec. 5.01, Table of Dimensional Requirements and parking in Section 6.02, Table of Off-Street Parking Requirements.

The current language of Sec. 5.08.1(a) addresses allowing the granting of reasonable relief for floor area because many institutional uses have campuses that are quite large and divided by streets. Therefore, pursuant to Sec. 5.08.1 (a) non-profit educational and religious institutions may, where appropriate, aggregate separate lots in calculating the allowed floor area for the total area. In addition, pursuant to Sec. 5.08.1(b), the floor area ratio may be increased by one per cent for each 2,000 s.f. of lot area above the required minimum lot size, up to a maximum of 65%. Section 5.08.2 addresses the granting of further modification to the dimensional requirements of Article V, and Section 6.02.4.c. to parking requirements of Art. VI. Both allow, by special permit, modifications to these requirements to the extent necessary to allow reasonable development in general harmony with the neighborhood.

In the past, the Planning Board and Board of Appeals have reviewed many requests from both non-profit educational and religious institutions for dimensional relief under Section 5.01, and parking relief under 6.02 of our Zoning By-Law. Although design review, under Section 5.09, was disallowed for Dover Amendment cases by a previous court decision (involving the Cardinal Cushing College in Brookline, 1964), most institutions are happy to incorporate design recommendations during the approval process. The requirement for a special permit to obtain dimensional and/or parking relief from the Board of Appeals is extremely beneficial to the Town as it requires notification to abutters and Town Meeting members and provides an opportunity for input from the public, the Planning Department, and the Boards. A partial list of institutions that have gone through the Board of Appeals approval process and accepted conditions attached to the relief include: Dexter and Southfield Schools, Park School, Maimonides, Lincoln School, and the proposed Mormon Meeting House. In all of these cases, the applicants have agreed to significant safeguard conditions in the Board of Appeals decisions to provide landscaping to screen new structures from abutters, improve pedestrian and vehicular circulation design and student pick-up, and for off-street parking. Institutional representatives often remark that building and site plans are improved through this collaborative review and approval process.

Although the Planning Board is unanimous in not supporting the elimination of all controls on educational and religious uses, it does urge further analysis by the Zoning By-Law Committee on how the Brookline Zoning By-law can best address non-profit educational and religious uses.

Therefore, the Planning Board unanimously recommends NO ACTION on Article 16 as submitted.

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## SELECTMEN'S RECOMMENDATION

Article 16 is a petitioned article that would eliminate the current Section 5.08 of the Zoning By-Law, which outlines a special permit process for dimensional review of so-called "exempt" uses. It would also eliminate regulation of these uses' parking requirements under Section 6.02 of the Zoning By-Law. These uses, the same ones as outlined as exempt from use regulation in State law under the so-called "Dover Amendment" and in MGL 40A, Sec. 3, are places of worship and certain educational uses. Section 5.08 states that these uses are subject to the same dimensional requirements as other uses, but may receive some density bonuses if on large lots. In addition, Section 5.08 allows for these requirements may be waived by special permit "to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity." Section 6.02.3.e. and 6.02.4.c. allow a similar waiver process by special permit for parking requirements, which would be replaced with a total elimination of such requirements. These regulations are beneficial to the Town and to neighbors because they require notification to abutters and Town Meeting members and provide an opportunity for input from the public, the Planning Board and planning staff. The facts of the Runkle School renovation notwithstanding,

the regulations may be useful in regulating future development of sites which are intended for worship or educational uses.

This article was submitted in response to the concern of some neighbors of the Runkle School that the Zoning Board of Appeals (ZBA) cited the Dover Amendment in approving the addition to the school currently under construction. The petitioners believe that the current language provides residents with a false sense of security that such uses will have to obtain special permits to vary from zoning.

The Board of Selectmen does not feel that the solution to concerns about exempt uses is to entirely exempt them from zoning review. Most likely, the solution is to continue to regulate them in some fashion with respect to dimensional requirements while permitting some exemptions from zoning in situations directly related to these uses' special rights under state and federal law. However, the Board feels that some improvements can be made to the current section 5.08 in keeping with the concerns of the petitioners, and in light of the fact that there may be times when the existing Zoning By-Law does not entirely address the perceived issues related to some exempt uses. Therefore, by a vote of 4-0 taken on April 17, 2012, the Board of Selectmen supports the Advisory Committee's recommendation for a referral of Article 16 to the Zoning By-Law Committee.

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This article would eliminate certain dimensional restrictions and parking requirements for projects involving institutions eligible for exclusions covered by the Dover Amendment, including schools and religious organizations. The petitioner asserts that Town boards and commissions ignored provisions of the Zoning By-law when approving the Runkle School project and the development on Route 9 proposed by the Church of Jesus Christ of Latter-day Saints, both of which were eligible for protection under the Dover Amendment, and that removing these restrictions from the Zoning By-law brings our bylaws into alignments with de facto town practices.

The Dover Amendment, enacted in 1950, exempts religious and (following a broadening of its scope 6 years later) educational institutions from use and other provisions of municipal zoning by-laws, nevertheless permits a municipality, at its discretion, to enact "reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements." In 1965, Brookline incorporated bylaw language specific to Dover Amendment institutions as a response to a proposed dormitory project on Fisher Hill by the Sisters of the Holy Cross. This language was crafted to "relax limitations on religious and educational uses sufficiently to earn court approval if challenged."

This Zoning By-law (5.08) allows for the modification of floor area and parking requirements for Dover Amendment projects by right, and changes to dimensional restrictions by Special Permit "to the extent necessary to allow reasonable development

of such a use in general harmony with other uses permitted and as regulated in the vicinity." The petitioner of Article 16 asserts that the requirement of "general harmony" with neighbors was ignored and suggests that Town Meeting should confront the issue of whether that language still remains applicable and qualifies as a reasonable regulation. The language, the petitioner asserts, has been ignored in practice and the expectations of residents should be "reset" to acknowledge the reality.

By-law 6.02 requires a minimum number of on-site parking spaces based on building size. Religious institutions are exempt, but schools are not. Spaces can be reduced by Special Permit provided the 'in harmony' clause is deemed met.

DISCUSSION:
The petitioner explained that the reason for bringing this before TM was to make clear what is already in practice and to eliminate any "false sense of security" for abutters. The petitioner maintains that the current Bylaw language describing relief for projects in "general harmony with neighbors" is ambiguous and subjective, and in fact does not exist in the Dover Amendment, creating an additional permitting hurdle that can be avoided. The Runkle project went in front of the ZBA on four occasions and in January 2010 was granted exemption to the "harmony clause" of the By-law due to the Dover Amendment, clearing the way for construction to commence.

Much of the petitioner's efforts on this topic have been devoted to Runkle's FAR calculations, and reveal potentially confusing language in the By-law. Runkle School is in an S-7 District with an FAR of 0.35. Runkle's FAR "bonus" was calculated at 63% based on lot size (up to 65% allowed). The petitioner claims the FAR was miscalculated at 0.35 + 0.63 = 0.98 when originally submitted, but states it should have been 0.35 x 1.63 = 0.57. An 11/2/09 memo from the Planning Department reveals two possible interpretations of FAR calculations (addition vs. multiplication), and the Building Commissioner later admitted to the ZBA an error in his initial FAR calculations. Clarification of the By-law to calculate FAR by multiplication, not addition, is outside the scope of Article 16.

The Department of Planning and Community Development issued a memorandum (attached "Background Information Related to Board of Appeals Review of Educational and Religious Uses") citing numerous examples since the 1970's in which dimensional and parking requirements were useful in reviewing Dover-eligible projects, citing that having some regulation in place afforded a measure for comparative review that would not otherwise exist.

In addition to eliminating any attempt to regulate dimensional and parking requirements for Dover projects, we note that the passage of Article 16 would, in fact, entirely eliminate the requirement that Zoning Board of Appeals to consider "harmony with the neighborhood".

We note that the Zoning By-law Committee (ZBC) voted a NO ACTION recommendation on Article 16. However, the ZBC in its No Action recommendation noted a number of issues raised by the article which it felt was worthy of further study.

RECOMMENDATION:
While not agreeing with the petitioner's solution to eliminate dimensional and parking requirements for Dover projects, as well as the requirement to consider general harmony with its surroundings, the Advisory Committee felt that the petitioner has raised some issues worth exploring further, including whether the By-law could be clarified for Dover projects and whether the current case law could be reexamined to determine whether the by-law can be modified to be more proscriptive for Dover projects. For these reasons, by a unanimous vote of 21-0-1, the Advisory Committee recommends the following motion which mirrors the No Action recommendation of the ZBC:

VOTED: That the subject matter of Article 16 be referred to the Zoning By-Law Committee to consider recent case law for the Dover Amendment to determine what type of regulation might be permissible under case law, what the criteria can and should be for such projects, and whether the Town's By-laws can and should be redrafted or, in fact, tightened to clarify operation of the bylaws and mitigate impacts on all concerned parties including abutters while still complying with the Dover Amendment.

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BACKGROUND INFORMATION RELATED TO BOARD OF APPEALS REVIEW OF EDUCATIONAL AND RELIGIOUS USES

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ZBA Decision #3103 – November 14, 1991
Proposal: Construct a new 81,640 s.f. school to serve 450 K-8 students. The building required special permits under Section 5.03 & 5.08(b) [Height: allowed 35', proposed 38.6'-51']; Section 5.40 [Side Yard Setback: required 15', proposed 11']; Section 6.11.d.3 [modification to required # of parking spaces to serve educational uses: 93 required, 73 proposed], Section 6.13.e.3.4 [front and side yard setback requirements for parking areas: required 30', proposed 9' in front and 6'-22' on side];

ZBA Decision # 1885 & 1885A – June 6, 1974 & April 3,1975
Proposal: Construct a 106,600 s.f. to serve 600 K-8 students. Under Section 5.08.a.2, a by-right FAR bonus up to 65% of the allowed GFA for educational uses was invoked [maximum allowed would have been 178-254 s.f.]. The building required special permits under Section 5.09, 5.08.b [modification of dimensional requirements for Uses 9 &10]; 5.30 [building height, allowed 35', proposed 52']; Section 6.11.3.d [required number of parking spaces 89, proposed 55]; Section 6.12.a.2 [to allow parking on a site within 400' of the proposed use]; and Section 6.13.e.3.2 [special permit for common drive]. Variances under 6.20.f [number of loading bays: required 3, proposed 2]; Section 6.21.a [design of loading bays: required 12'w x 30'l x 14'h, proposed 11'w x 30'l x 12'h] were also granted. This iteration of the building was never built because the referendum for funding was defeated at Town Meeting.

**Park School – 171 Goddard Avenue**
ZBA Decision #070012 – April 24, 2007
Proposal: Construct a 20,000 s.f., three-story rear addition, reconstruct a perimeter access road, and extend the parking lot within the front yard setback requiring special permits under Section 5.08.2 for height [allowed 35', existing 35', proposed 40'] and building rear yard setback [required 60', existing 56', proposed 29'9"], and under Section 5.43 for front yard setback for the parking [required 40', existing 15', proposed extension 20'10"]. The proposed complied with FAR [maximum 0.15, existing 0.13, proposed 0.148].

ZBA Decision #3331 – May 16, 1996
Proposal: Construct a three-story addition for a gymnasium, science labs and computer room and classroom space, requiring a special permit under Section 6.11.d.3 [allowed the Board of Appeals to waive parking and loading space requirements for educational uses]

to reduce the required number of parking spaces and loading areas. The overall student body enrollment was not increasing.

ZBA Decision #3023 – June 13, 1990
Proposal: Construct a 52-car parking lot within the front yard [required 40', proposed 20'] requiring special permit under Section 5.43.

ZBA Decision #1669 – November 12, 1970
Proposal: Construct a 21-car parking lot within the front yard [required 30', proposed 18'] requiring a special permit under Section 5.43.

***XXX***

## ARTICLE 17

SEVENTEENTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will amend the Zoning By-Law by inserting at the end of the introductory paragraph of Section 5.21 - Exceptions to Maximum Floor Area Ratio Regulations (Public Benefit Incentives):

> No bonus shall be granted where the claimed public benefit is otherwise required by this Zoning By-Law or by any other by-law, statute, code or regulation.

And inserting at the end of Section 5.32.2.a – Exceptions to Maximum Height Regulations (Public Benefit Incentives):

> The Board of Appeals shall find that the amount of any additional height allowed is commensurate with the public benefit offered. No additional height shall be allowed where the claimed public benefit is otherwise required by this Zoning By-Law or by any other by-law, statute, code or regulation.

or act on anything else relative thereto.

### PETITIONER'S ARTICLE DESCRIPTION

The Planning and Community Development Department is submitting this article at the recommendation of the Selectmen's Zoning By-Law Committee. For certain projects to qualify for a bonus of extra floor area or height, public benefits need to be provided. This amendment proposes that a developer not be able to claim as a public benefit anything that is already required by the Zoning By-Law or by any other by-law, statute, code or regulation. As just one example, the Zoning By-Law provides in Section 5.21 that additional gross floor area may be granted for "environmentally friendly sustainable building … practices." The Town, however, has recently adopted the Stretch Energy Code that requires certain energy-saving measures. Measures already required by the Zoning By-Law or other codes or regulations such as the Stretch Energy Code should not result in bonuses of floor area or height.

Section 5.21 already states that floor area bonuses are not permitted for affordable housing or open space**,** if those benefits are not in excess of that required by the Zoning By-Law. This amendment would broaden that concept in three ways: (a) by extending it to requirements in addition to those found in the Zoning By-Law; (b) by extending it to "public benefits" beyond affordable housing and open space; and (c) by extending it to Section 5.32 (height bonuses).

In addition, the amendment inserts in Section 5.32.2.a the language that any additional height must be commensurate with the public benefit offered. Similar language is already included in Section 5.21 (additional floor area), but was inexplicably omitted from Section 5.32 (height). This addition attempts to ensure that in return for bonuses of not only floor area but also height, the benefits to the Town and neighborhoods are substantial and commensurate with the relief allowed.

The Zoning By-Law Committee recognizes that additional revisions of the public benefit provisions of the By-Law may be warranted, but believes that these changes are an appropriate first step.

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RECOMMENDATION OF THE ZONING BY-LAW COMMITTEE

This article was inserted at the recommendation of the Zoning By-Law Committee, and the Committee recommends favorable action for the reasons stated in the explanation.

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PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Department of Planning and Community Development, with the support of the Selectmen's Zoning By-Law Committee. The purpose of this amendment is to clarify that when a public benefit is offered in return for a bonus of increased floor area or height, under Section 5.21, Exceptions to Maximum Floor Area Ratio Regulations (Public Benefit Incentives) or Section 5.32.a, Exceptions to Maximum Height Regulations (Public Benefit Incentives), the public benefit must be something that is not already required in the zoning by-law or by another regulation, such as the Stretch Energy Code. Additionally, under the height section, language has been added clarifying that the bonus must be commensurate with the public benefit that is offered. This wording was previously added to the section on floor area ratio regulations but, by oversight, was not added to the height section.

The Planning Board believes that these amendments are appropriate and that the Zoning By-Law will be made stronger by adding an explicit statement that a public benefit must be above and beyond what is otherwise required and commensurate with the size of the bonus granted. Like the Zoning By-Law Committee, the Planning Board believes that even if some feel the public benefits section of the By-Law needs further evaluation, adopting these amendments now does not preclude future changes.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 17 as submitted.

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## SELECTMEN'S RECOMMENDATION

Article 17 was submitted by the Department of Planning and Community Development, with the support of the Selectmen's Zoning By-Law Committee. The purpose of this amendment is to clarify that when a public benefit is offered in return for a bonus of increased floor area or height, the public benefit is an additional benefit to the Town, not something that is required elsewhere in the zoning by-law or by another regulation. For example, developers should not be able to take credit for meeting the Stretch Energy Code or complying with the Town's wetlands by-law to seek public benefits. Additionally this article adds language to the height section (5.32) to clarify that any bonus must be commensurate with the public benefit that is offered. This wording was previously added to the section on floor area ratio regulations (5.21) as part of an earlier zoning amendment.

The Board sees this as a housekeeping item that is in keeping with the current interpretation of the Zoning By-Law. In order to ensure that this interpretation is not revisited at a future date, the Board believes these amendments should be supported. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 17, 2012, on the following motion:

VOTED: that the Town amend the Zoning By-Law by inserting at the end of the introductory paragraph of Section 5.21 - Exceptions to Maximum Floor Area Ratio Regulations (Public Benefit Incentives):

> No bonus shall be granted where the claimed public benefit is otherwise required by this Zoning By-Law or by any other by-law, statute, code or regulation.

And inserting at the end of Section 5.32.2.a – Exceptions to Maximum Height Regulations (Public Benefit Incentives):

> The Board of Appeals shall find that the amount of any additional height allowed is commensurate with the public benefit offered. No additional height shall be allowed where the claimed public benefit is otherwise required by this Zoning By-Law or by any other by-law, statute, code or regulation.

**ROLL CALL VOTE:**
Favorable Action
DeWitt
Daly
Benka
Goldstein

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
The Brookline Zoning By-law permits developers or owners to qualify for one or more of several "Public Benefit Incentives" whereby, in return for certain specified public benefit accommodations in the project, the developer may qualify for a bonus of increased floor area or height. In some situations, however, a particular accommodation may already be required by other regulations.

The purpose of Article 17 is to clarify that, in order to qualify for the increased floor area or height, the public benefit must not be something that is already required in the zoning by-law or by another regulation. As an example, adoption of the Stretch Energy Code, which is already required, or the preservation of an historic structure in a Local Historic District (LHD), the demolition of which can be blocked by the Preservation Commission, would thus not qualify the project for a public benefit incentive. The proposed amendment to the Zoning Bylaw as set out in Article 17 would clarify this.

Article 17 would amend the Zoning By-Law by inserting at the end of the introductory paragraph of Section 5.21 - Exceptions to Maximum Floor Area Ratio Regulations (Public Benefit Incentives), the following:

> No bonus shall be granted where the claimed public benefit is otherwise required by this Zoning By-Law or by any other by-law, statute, code or regulation.

and by inserting at the end of Section 5.32.2.a – Exceptions to Maximum Height Regulations (Public Benefit Incentives), the following::

> The Board of Appeals shall find that the amount of any additional height allowed is commensurate with the public benefit offered. No additional height shall be allowed where the claimed public benefit is otherwise required by this Zoning By-Law or by any other by-law, statute, code or regulation.

DISCUSSION:
The Planning Board states that it believes that these amendments are appropriate and that the Zoning By-Law will be made stronger by adding an explicit statement that a public benefit must be above and beyond what is otherwise required and commensurate with the size of the bonus granted. In its recommendation, the Planning Board notes that, like the Zoning By-Law Committee, the Planning Board believes that even if some feel the public benefits section of the By-Law needs further evaluation, adopting these amendments now does not preclude future changes.

RECOMMENDATION:
The Advisory Committee believes this is a common sense addition to the Zoning Bylaw and concurs in the Planning Board's recommendation on Article 17 and, by a vote of 19-

0-1, recommends FAVORABLE ACTION on Article 17 as recommended by the Board of Selectmen.

***XXX***

## ARTICLE 18

EIGHTEENTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will amend the second paragraph of Sec. 9.07 – Time Limits For Special Permits by striking certain language and adding language shown in bold as follows:

> The Board of Appeals, upon written application and after due notice and a public hearing as provided by statute, may grant ~~one of more extensions of time for periods~~ **a time extension** not to exceed six months ~~for each such extension~~ for a variance**,** and ~~one extension for a period~~ not to exceed one year for a special permit. **Time extension requests shall not require an advisory report from the Planning Board.**

or act on anything else relative thereto.

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### PETITIONER'S ARTICLE DESCRIPTION

The Planning and Community Development Department is submitting this article at the recommendation of the Selectmen's Zoning By-Law Committee. The article addresses two issues relating to time extensions to exercise the rights granted by variances and special permits.

First, the article would explicitly permit time extension requests to be granted by the Board of Appeals without requiring the additional step of Planning Board review and a Planning Board Report. Time extension requests typically occur for financial reasons or difficulties in hiring a contractor. The Planning Board and Board of Appeals rarely have objections to granting these requests. Consideration of these requests does not allow for discussion of the merits of the original case or for expansion of the scope of work originally allowed by a variance or special permit, but solely for discussion of the reasons for the request for additional time. If a project's scope has changed, a modification request, not a time extension request, must be submitted, and this would continue to go to both boards. Given the largely pro forma nature of time extension requests, and the fact that there will continue to be notice and a hearing before the Board of Appeals, the additional steps of a Planning Board hearing and report needlessly burden the applicant and the Planning Board.

Second, in reviewing the provisions of Chapter 40A (the State's Zoning Act) in connection with this article, it was noted that Section 10 of Chapter 40A appears to contemplate only a six-month extension for variances, not a series of six-month extensions:

> "If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights ***for a period not to exceed six months***; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period."

The article therefore removes the references to "one or more extensions" in order to bring our By-Law into compliance with the apparent intent of state law.

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RECOMMENDATION OF THE ZONING BY-LAW COMMITTEE

This article was inserted at the recommendation of the Zoning By-Law Committee, and, for the reasons stated in the explanation, the Committee recommends favorable action on the following vote:

VOTED: That the Town amend the second paragraph of Section 9.07 of the Zoning By-law --Time Limits for Special Permits and Variances -- by striking certain language and adding language shown in bold as follows:

> The Board of Appeals, upon written application and after due notice and a public hearing as provided by statute, may grant ~~one or more extensions of time for periods~~ **a time extension** not to exceed six months ~~for each such extension~~ for a variance**,** and ~~one extension for a period~~ not to exceed one year for a special permit. **Time extension requests shall not require an advisory report from the Planning Board.**

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PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Department of Planning and Community Development, with the support of the Selectmen's Zoning By-Law Committee. Initially, the impetus for this warrant article was to eliminate the requirement for the Planning Board to review and make recommendations on time extension requests, since the granting of such requests is common. However, after Section 9.07 of the Brookline Zoning By-Law, Time Limits for Special Permits and Variances, was scrutinized, it appeared that our By-Law might not be consistent with the language in MGL Chapter 40A for time extensions of variances. The state statute allows an extension for a variance for up to a period of no longer than six months, where our By-Law allows one or more extensions of time for a variance not to exceed six months. This phrase "one or more extensions of time …" is proposed to be deleted.

The original goal to allow time extension requests to go straight to the Board of Appeals is supported by the Planning Board. Most time extension requests are due to an applicant having financial issues or difficulty in hiring a contractor. Unless circumstances have dramatically changed, and this is unlikely within a year's time, extensions are typically granted. Requests for modifications to a proposal or a condition in a Board of Appeals decision would still go for review and recommendation by the Planning Board, before going to the Board of Appeals. This allows neighbors a chance to comment on any proposed changes. But with a time extension request, discussion of the merits of the original approval is not appropriate; instead, the discussion must focus on whether the time extension request is reasonable. Thus, given the largely pro forma nature of time extension requests, and that there will continue to be public notice and a Board of Appeals hearing, the additional steps of a Planning Board meeting and recommendation needlessly burden the applicant.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 18 with some minor revisions (*in italics*) as follows.

To see if the Town will amend the second paragraph of Sec. 9.07 – Time Limits For Special Permits *and Variances of the Zoning By-Law* by striking certain language and adding language shown in bold as follows:

> The Board of Appeals, upon written application and after due notice and a public hearing as provided by statute, may grant ~~one *or* more extensions of time for periods~~ **a time extension** not to exceed six months ~~for each such extension~~ for a variance**,** and ~~one extension for a period~~ not to exceed one year for a special permit. **Time extension requests shall not require an advisory report from the Planning Board.**

or act on anything else relative thereto.

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## SELECTMEN'S RECOMMENDATION

Article 18 was submitted by the Department of Planning and Community Development, with the support of the Selectmen's Zoning By-Law Committee. The purpose of this amendment is to allow requests for time extensions of special permits and variances to go directly to the Zoning Board of Appeals without the requirement of a Planning Board report on the request. Time extensions may be granted for six months for a variance and for one year for a special permit. This time extension is in addition to the year that the special permits or variance are initially valid under the Zoning By-Law and allows some wiggle room if a property owner has had issues finding a contractor, lining up financing, or other circumstances have arisen that might delay a project. This extension only extends the time for the special permit or variance prior to pulling a building permit. Once a building permit is issued, the issue of the length of time a special permit or variance is valid for is moot since it has been acted on with the seeking of a building permit. In

addition, this amendment makes some language changes to make section 9.07 consistent with state law as to offering an extension of a special permits or variance.

The granting of a time extension is a fairly administrative process that does not generally involve revisiting the merits of the permit. Rather, the process only involves looking at why more time is needed to act on the permit, and should not therefore require a Planning Board report (which would continue to be required for modification of the substance of a special permit). The Planning Board cannot recall a time when they have felt there was any reason not to grant a time extension. In any case, the Planning Board would still be free to weigh in on an extension request if they wished to; they simply would not be required to do so. Finally, even for an extension of time, there would continue to be a public hearing before the ZBA. The change to make the language consistent with state law is good practice and should also be supported. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 10, 2012, on the following motion:

VOTED: That the Town amend the second paragraph of Sec. 9.07 of the Zoning By-Law – Time Limits For Special Permits and Variances by striking certain language and adding language shown in bold as follows:

> The Board of Appeals, upon written application and after due notice and a public hearing as provided by statute, may grant ~~one *or* more extensions of time for periods~~ **a time extension** not to exceed six months ~~for each such extension~~ for a variance**,** and ~~one extension for a period~~ not to exceed one year for a special permit. **Time extension requests shall not require an advisory report from the Planning Board.**

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ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This article was submitted by the Planning and Community Development Department. Once issued a special permit or variance, applicants have one year to pull a building permit. When circumstances (such as inability to arrange financing or hire a contractor) prevent the start of a project within the year, the applicant can apply for an extension. Unless circumstances have dramatically changed, and this is unlikely within a year's time, extensions are typically granted. Under the current law, such extension requests are considered by the Planning Board who then issues an advisory report to the ZBA. The proposal would allow such extension requests to proceed directly to the ZBA for public hearing and decision.

The article also makes minor adjustments to the extension language to better align it with MGL Chapter 40A. The state statute allows an extension for a variance for up to a period of no longer than six months, where our By-Law allows one or more extensions of time for a variance not to exceed six months. This phrase "one or more extensions of time …" is proposed to be deleted.

DISCUSSION:
Extension requests, without any changes to the proposal are, in reality pro forma exercises where the only thing to be considered is whether the extension request is reasonable. Currently, the Planning Board is required to hold a hearing and write an advisory opinion on these extension requests taking valuable time from this volunteer board and diverting their attention from matters where they can actually add value. This article does not prevent the Planning Board from issuing an advisory report if the Board desires, it just doesn't require it.

It is important to note that the ZBA will continue to hold its public hearings on these extensions with notice to abutters, abutters to abutters plus all TMMs of the affected and adjoining precincts so there will continue to be a public process where concerns of affected parties can be aired.

Also, if any changes to the subject project are filed along with the extension, these will continue to require a Planning Board hearing and advisory report.

RECOMMENDATION:
The Advisory Committee agreed with the Planning Board and Zoning By-Law Committee that this proposal has merit. The Committee by a 20-0 vote recommends the Planning Board's language, which is reflected in the vote offered by the Selectmen.

***XXX***

## ARTICLE 19

NINETEENTH ARTICLE
Submitted by: Department of Planning and Community Development

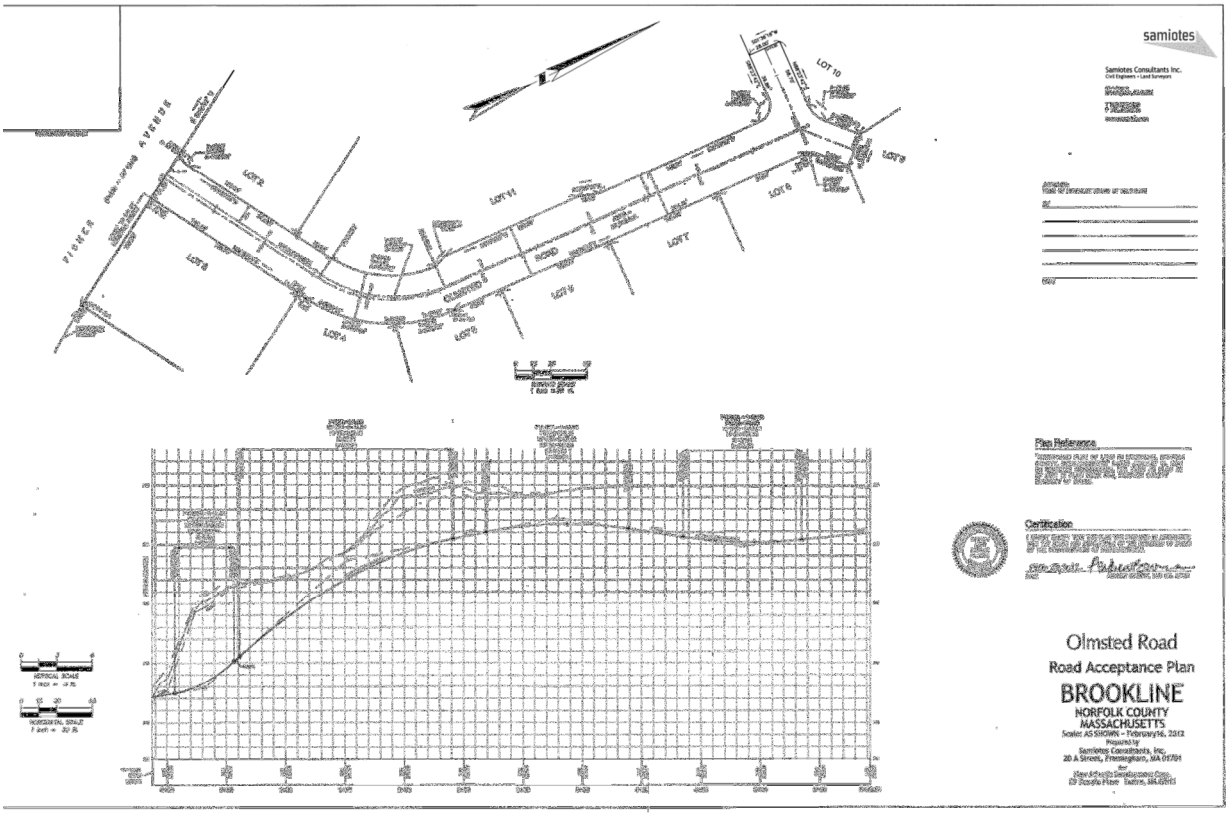
To see if the Town will accept the parcel of land described below and as set forth in the following plan as a public way in the Town of Brookline to be known as Olmsted Road pursuant to Massachusetts General Laws Chapter 82, Sections 21-24.

- Beginning at a point on the easterly side of Fisher Avenue 113.27' northerly from the intersection with Leicester Street:
- thence N58-33-30E - one hundred fifty five and 48/110 feet ( 155.48') by lot 3 and a portion of lot 4 to a point of curvature,
- thence - one hundred thirty one and 21/100 feet (131.21') by the remainder of lot 4 and a portion of lot 5 by a curve to the left having a radius of 132.00' to a point of tangency,
- thence - N01-36-18E - three hundred twenty four and 19/100 feet (324.19') by the remainder of lot 5 and lots 6, 7 and a portion of lot 8 to a point of curvature,
- thence - seven and 85/100 feet (7.85') by lot 8 by a curve to the right having a radius of 10.00' to a point of tangency,
- thence N46-36-18E - twenty nine and 89/100 feet (29.89') by the remainder of lot 8 to an angle point,
- thence N43-23-42W - twenty eight and 00/100 feet (28.00') by lot 9 to an angle point,
- thence S46-36-18W - thirty two and 16/100 feet (32.16') by lot 10 to a point of curvature,
- thence - nineteen and 63/100 feet (19.63') by lot 10 by a curve to the right having a radius of 25.00' to a point of tangency,
- thence N88-23-42W - fifty eight and 70/100 feet (58.70') by lot 10 to an angle point,
- thence S01-36-18W - Twenty eight and 00/100 feet (28.00) by lot 10 to an angle point,
- thence S88-23-42E - thirty nine and 86/100 feet (39.86') by lot 11 to a point of curvature,
- thence - twenty three and 56/100 feet ( 23.56') by lot 11 by a curve to the right having a radius of 15.00' to a point of tangency,
- thence S01-36-18W - one hundred forty seven and 81/100 (147.81') feet by lot 11 to an angle point,
- thence S16-55-18W - eighteen and 93/100 feet (18.93') by lot 11 to an angle point,
- thence S01-36-18W - one hundred twenty and 56/100 feet (120.56') by lot 11 to an angle point,
- thence S20-12-05E - thirteen and 46/100 feet (13.46') by lot 11 to a point of curvature, (non tangent)
- thence - ninety one and 45/100' feet (91.45') by lot 11 by a curve to the right having a radius of 92.00' to a point of tangency,

- thence S58-33-30W - one hundred forty two and 92/100 feet (142.92') by the remainder of lot 11 and lot 12 to a point of curvature,
- thence - thirteen and 65/100 feet (13.65') by lot 12 by a curve to the right having a radius of 19.50 to the intersection of the easterly sideline of Fisher Avenue,
- thence S31-26-30E - forty four and 58/100 feet (44.58') to the point of beginning.

Said road containing 27,549 S.F. of land.

For further identification of this description and location reference is hereby made to a plan and profile made by Samiotes Consultants Inc., Andrew Browne P.L.S. dated February 16, 2012, approved by us, verified by our signatures and adopted as part of this record. A copy of said Plan is incorporated herein and made a part hereof.




Or act on anything relative thereto.

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PETITIONER'S ARTICLE DESCRIPTION

Olmsted Hill Road is a new, 600+ foot road serving a new subdivision developed on the former Town-owned reservoir site on Fisher Hill. It begins at Fisher Avenue and ends in

a "hammerhead" turnaround. The Town owns and will continue to own the parcel of land making up the roadway.

By way of background, development of this site by New Atlantic Development Corporation followed developer selection through a Request for Proposals issued by the Town on September 30, 2008; a unanimous Town Meeting vote to convey the property on November 18, 2009; and the execution of a Land Disposition Agreement (LDA) between developer and Town on May 11, 2010. Under the LDA, the "Olmsted Hill" project was treated as two components – a land development component and an affordable housing component.

Under the land development component, and in accordance with an approved subdivision plan dated January 11, 2011, the developer undertook the demolition of the two underground reservoirs, the importation of fill material, site grading, the construction of a road and sidewalk, and installation of associated utilities (underground sewer, drain, water, gas, electric, CATV and telephone). This work was carried out under license from and on land owned by the Town, and subject to monitoring and approval by the Town's Department of Public Works (DPW).

The subdivision creates 10 single family lots and one larger lot for a 24-unit affordable condominium complex. As each lot was ready for purchase by an end-user or builder, the lot was transferred from Town to developer. The Town still owns the right-of-way on which the road was constructed. As of early March, 2012, the two remaining single family lots were under agreement to sell in April. In accordance with its agreement with the Town, the lots are being conveyed prior to installation of the finish course of road pavement, granite curbing, and sidewalks. This work was deferred until completion of heavy construction on the multi-family lot in order to avoid damage to the curbing and sidewalks during construction. The developer will undertake this work as soon as the plans for the two final lots are finalized, but in any case by the completion of the affordable housing component during the summer of 2012. Funding for road completion has been set aside, with payment subject to approval by the DPW.

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## SELECTMEN'S RECOMMENDATION

Article 19 was submitted by the Department of Planning and Community Development as part of the Olmsted Hill project on Fisher Avenue. That project, which involved the sale of a Town-owned reservoir site for redevelopment into 10 single-family home lots and a 24-unit affordable housing development, is nearing completion. This article would authorize the Town to accept the road in the subdivision, Olmsted Road, as a public way pursuant to Massachusetts General Laws Chapter 82, Sections 21-24.

There are many benefits to accepting the road as a public way. For example, the Town's liability is limited on a public way and the Town gets credit for the lane miles of roadway on the public way as state road maintenance funds are granted. In addition, since there will be affordable units along this roadway, it is good policy for the Town to have the

road as a public way to ensure that the units are not unduly burdened with special assessments to upkeep the road at a future date. There are few disadvantages to accepting the roadway. The Town will be obligated to plow and otherwise maintain the road, but given the size of the subdivision it would be good policy to do so regardless.

This article is part of the completion of what has, to date, been a well-planned and implemented process of redeveloping the Town-owned reservoir site. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 24, 2012, on the motion offered by the Advisory Committee.

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ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 19 asks the Town to accept a 600+ foot road serving a new subdivision off Fisher Avenue.

DISCUSSION:
Under the agreement between the Town and New Atlantic Development Corporation, the developer undertook a number of actions including the demolition of underground reservoirs, installation of utilities (sewer, drain, water, gas, electric, CATV and telephone), grading of the site, and construction of a road and sidewalk. The Town is the owner of the right-of-way on which the road was constructed. Although curbs and sidewalks have not yet been completed, the work is expected to be finished during the summer. The final acceptance of the road as a public way is subject to the approval of the Building Commissioner.

Currently the town has liability up to $100,000 per claim because the Town has not accepted the road as a "public way". As soon as the road becomes a public way, under State law, the Towns liability is reduced to $5,000 per claim. This new Town public way will be known as Olmsted Road.

RECOMMENDATION:
The Advisory Committee unanimously recommends FAVORABLE ACTION on the following motion:

VOTED: that the Town accept the parcel of land described below and as set forth in the following plan as a public way in the Town of Brookline to be known as Olmsted Road pursuant to Massachusetts General Laws Chapter 82, Sections 21-24.

- Beginning at a point on the easterly side of Fisher Avenue 113.27' northerly from the intersection with Leicester Street:
- thence N58-33-30E - one hundred fifty five and 48/110 feet ( 155.48') by lot 3 and a portion of lot 4 to a point of curvature,
- thence - one hundred thirty one and 21/100 feet (131.21') by the remainder of lot 4 and a portion of lot 5 by a curve to the left having a radius of 132.00' to a point of tangency,

- thence - N01-36-18E - three hundred twenty four and 19/100 feet (324.19') by the remainder of lot 5 and lots 6, 7 and a portion of lot 8 to a point of curvature,
- thence - seven and 85/100 feet (7.85') by lot 8 by a curve to the right having a radius of 10.00' to a point of tangency,
- thence N46-36-18E - twenty nine and 89/100 feet (29.89') by the remainder of lot 8 to an angle point,
- thence N43-23-42W - twenty eight and 00/100 feet (28.00') by lot 9 to an angle point,
- thence S46-36-18W - thirty two and 16/100 feet (32.16') by lot 10 to a point of curvature,
- thence - nineteen and 63/100 feet (19.63') by lot 10 by a curve to the right having a radius of 25.00' to a point of tangency,
- thence N88-23-42W - fifty eight and 70/100 feet (58.70') by lot 10 to an angle point,
- thence S01-36-18W - Twenty eight and 00/100 feet (28.00) by lot 10 to an angle point,
- thence S88-23-42E - thirty nine and 86/100 feet (39.86') by lot 11 to a point of curvature,
- thence - twenty three and 56/100 feet ( 23.56') by lot 11 by a curve to the right having a radius of 15.00' to a point of tangency,
- thence S01-36-18W - one hundred forty seven and 81/100 (147.81') feet by lot 11 to an angle point,
- thence S16-55-18W - eighteen and 93/100 feet (18.93') by lot 11 to an angle point,
- thence S01-36-18W - one hundred twenty and 56/100 feet (120.56') by lot 11 to an angle point,
- thence S20-12-05E - thirteen and 46/100 feet (13.46') by lot 11 to a point of curvature, (non tangent)
- thence - ninety one and 45/100' feet (91.45') by lot 11 by a curve to the right having a radius of 92.00' to a point of tangency,
- thence S58-33-30W - one hundred forty two and 92/100 feet (142.92') by the remainder of lot 11 and lot 12 to a point of curvature,
- thence - thirteen and 65/100 feet (13.65') by lot 12 by a curve to the right having a radius of 19.50 to the intersection of the easterly sideline of Fisher Avenue,
- thence S31-26-30E - forty four and 58/100 feet (44.58') to the point of beginning.

Said road containing 27,549 S.F. of land.

For further identification of this description and location reference is hereby made to a plan and profile made by Samiotes Consultants Inc., Andrew Browne P.L.S. dated February 16, 2012, approved by us, verified by our signatures and adopted as part of this record. A copy of said Plan is incorporated herein and made a part hereof.

***XXX***

## ARTICLE 20

TWENTIETH ARTICLE
Submitted by: Retirement Board

To see if the Town will accept the provisions of Section 12(2) *Option* (d) *Member Service Allowance* of Massachusetts General Laws Chapter 32, as amended by Sections 29 and 30 of Chapter 176 of the Acts of 2011.

Or act on anything relative thereto.

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### PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the warrant at the request of the Retirement Board. The Brookline Retirement Board voted unanimously on February 6, 2012 to adopt this section.

Sections 29 and 30 of Chapter 176 of the Acts of 2011 created a local option that will increase the minimum monthly allowance contained in G.L. c. 32, § 12(2)(d) of a member survivor allowance from $250 to $500. This section became effective on February 16, 2012. Payments to eligible recipients are prospective only.

The Brookline Retirement System has less than 25 survivor/retirees that would be affected by this new law. The cost would be less than $20,000.00 for FY 2013 and would have a decreasing impact in future years. The Board strongly urges adoption of this local option, which will help survivors offset increases in health care and other necessaries of life.

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### SELECTMEN'S RECOMMENDATION

Article 20 was filed by the Retirement Board in order to increase the minimum monthly allowance of a member survivor allowance from $250 to $500. Currently, there are less than 25 survivor/retirees that would be affected by this, resulting in a $20,000 increase in cost to the retirement system. This amount will decrease over time. The Board believes that increasing the minimum pension for this group of individuals is the right thing to do and comes at a small price. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 24, 2012, on the following motion:

VOTED: That the Town accept the provisions of Section 12(2) *Option* (d) *Member Service Allowance* of Massachusetts General Laws Chapter 32, as amended by Sections 29 and 30 of Chapter 176 of the Acts of 2011.

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Brookline's Pension Board, a wholly independent board not under the direct control of Brookline's town government, inserted Article 20 into the Annual Town Meeting Warrant in order to obtain Town Meeting's acceptance of two sections of a recently passed state law.

It is not uncommon for the State Legislature to pass laws that require local acceptance in order for application in a municipality. Some Town Meeting members may remember the convening of a recent Special Town Meeting for the purpose of accepting the sections of state law that allow Brookline to charge local option meal and hotel taxes. The proposed Article 20 is going through the same local acceptance process.

Sections 29 and 30 of Chapter 176 of the Acts of 2011 create a local option that allows for an increase in the minimum monthly allowance payable to the survivor of a town retiree. The proposed increase is from $250 to $500 a month. Should Town Meeting vote to accept these sections of state law, payments to eligible recipients would only be made prospectively.

The Brookline Retirement System currently pays benefits to fewer than 25 survivors of town retirees that would be affected by acceptance of these two sections of state law, and as survivors of retirees pass away the number of eligible recipients will decrease until it eventually reaches zero. The cost of accepting this section would be less than $20,000.00 in FY 2013, and again would decrease in future years.

DISCUSSION:
The Town Treasurer informed the Committee that the survivors eligible for the proposed increase in their monthly benefit are quite old and the retirement that triggered the benefits in question occurred decades ago. Because of the length of time that has transpired between the retirement that triggered eligibility for benefits and today, the monthly pension benefit these survivors receive does not amount to very much. This is the main reason that the Legislature elected to provide the ability to double the monthly survivor benefit—to allow the benefit to become capable of covering at least some meaningful monthly expenses.

The Committee was curious why the survivor benefit in question is so low ($250 per month) given that many other retirement benefits are subject to a cost of living escalator. We were informed that at the time of the retirement of the current beneficiary's spouses, employee's lacked the ability to assign their full pension to their spouse in the event they pre-deceased their partner—the so called "Option C" benefit. In order to ensure that an employee's spouse would receive some support after the employee's passing, some retirees elected to receive lower pension benefits during their lifetime in exchange for the guarantee of a monthly benefit being paid to their spouse after their passing. This guaranteed monthly survivor benefit was not made subject to a cost of living adjustment or indexed to inflation. So, the benefit is lower than one might anticipate both because

the benefit has never been adjusted to reflect inflation and because the retirement that triggered eligibility for the benefits occurred so long ago.

Again, the population that would be effected by Article 20 is finite as a result of various changes to the laws governing public pensions in Massachusetts. As a means of context, today the average non-public safety pension in Brookline is $21,000 annually and continues to be payable to the spouse of a retiree after the employee's passing (in accordance with various applicable laws). Should Article 20 pass, survivor beneficiaries would receive $6,000 a year.

There was agreement amongst Committee members that accepting these two sections of state law, and doubling the monthly benefit for the 25 elderly individuals, was the right thing to do especially in light of the ever increasing cost of health care and life's daily essentials.

RECOMMENDATION:
The Advisory Committee unanimously recommends FAVORABLE ACTION on the motion offered by the Selectmen.

***XXX***

## ARTICLE 21

### TWENTY-FIRST ARTICLE

Submitted by: Retirement Board

To see if the Town will accept the provisions of Section 103(j) of Massachusetts General Laws Chapter 32, as amended by Section 19 of Chapter 133 of the Acts of 2010 to permit increases to the base upon which the cost of living increases may be granted to Town retirees from the first $12,000 to the first $13,000 of the retirement allowance.

Or act on anything relative thereto.

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### PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the warrant at the request of the Retirement Board. The Brookline Retirement Board voted unanimously on February 6, 2012 to adopt this section.

Section 19 of Chapter 133 of the Acts of 2010 provides authority to municipal retirement boards to increase the COLA base in increments of $1,000.00 for members and surviving spouses of members of the retirement system receiving retirement allowances on June 30th of the prior fiscal year.

By taking favorable action on this Article, the Town will accept a local option which increases the base upon which the cost of living increases may be granted to Town retirees from the first $12,000 to the first $13,000 of the retirement allowance. This will bring equity to retirees of the Town of Brookline following enactment of Chapter 176 of the Acts of 2011, which automatically increased the COLA base for retirees of the Massachusetts State Teachers Retirement System (which includes Retired Brookline Teachers and Administrators) and the Massachusetts State Employees Retirement System to $13,000.

Currently, the retirement COLA which has been factored into the system's funding schedule is 3% of the first $12,000. The funding schedule will be revised to anticipate the possibility of a 3% COLA each year on the first $13,000. The Retirement's Board's actuary estimates that the amortization of this new COLA provision would add in the neighborhood of $225,000 per year to that schedule. The Retirement Board has made changes to the membership criteria and has decreased the administrative expenses to substantially offset the increase to the funding schedule.

Several legislative authorities have adopted this section so as to increase the COLA base. It is now up for consideration by municipalities during the current spring cycle of town meetings across the Commonwealth.

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## SELECTMEN'S RECOMMENDATION

Article 21 was submitted by the Retirement Board and would increase the base upon which annual cost of living adjustments (COLA's) for retirees are calculated from $12,000 to $13,000. At the maximum allowable annual COLA of 3%, this would result in a $30 per year annual increase for a retiree, from $360 to $390.[1] This local option was made possible by the passage of the so-called "Pension Reform III" by the State in November, 2011. Other major components of the bill, each of which applies to new employees hired after April 2, 2012, include the following:

- Increase in the minimum retirement ago for most public employees from 55 to 60.
- Increase the age of eligibility for a full pension from 65 to 67 for non-public safety employees.
- An employee's pension benefit will be based on their highest five years of earnings instead of their highest three years.
- Benefits will be pro-rated for employees who worked in several classification groups.
- "Anti-spiking" provisions.

Statewide, the reforms are estimated to save a net of $5 billion before FY2040, the new maximum full-funding date.[2] One provision that actually increased costs was the increase in the COLA, which was estimated to cost between $1.5 - $2 billion.

While on a per retiree basis the cost ($30 per year) is small, approval of this warrant article would increase the Town's unfunded pension liability by more than $2.2 million. That translates into an additional $305,000 in the annual funding schedule. In an environment of increased unfunded pension liabilities, the Board does not believe that adding to the liability is fiscally prudent. This $305,000 funding increase would impact the Town's budget in FY14, and would be in addition to an increased pension funding obligation of $1 million that will already be required to offset portfolio losses. These obligations will have to be funded from the operating budget in FY14 at a time when significant other demands will be made on that budget, particularly as a result of increasing school enrollment.

The Board certainly understands the equity argument made in the Article Description on the previous page, but the additional cost to the system and increase in unfunded liability is much too great to justify the small increase to individual retirees. Therefore, the Selectmen recommend NO ACTION, by a vote of 5-0 taken on April 24, 2012, on Article 21.

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[1] $12,000 x 3% = $360/yr. $13,000 x 3% = $390/yr. $390-$360 = $30.

[2] Prior to a change made in 2010, 2030 was the latest a retirement system could be fully-funded by.

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ADVISORY COMMITTEE'S RECOMMENDATION

The Advisory Committee's recommendation will be included in a Supplemental Report to be mailed prior to the commencement of Town Meeting.

***XXX***

# ARTICLE 21

## ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
Brookline's Pension Board inserted Article 21 into the Warrant in order to obtain Town Meeting acceptance of a section of recently passed state law.

Section 19 of Chapter 188 of the Acts of 2010 allows municipal retirement Boards to increase the Cost of Living Adjustment (COLA) base for members, and the surviving spouses of members, of the retirement system receiving retirement allowances on June 30th of each year. Any adjustment that is made effects payments made in the following fiscal year.

Currently, the Brookline Retirement Board has the ability to approve a maximum 3% COLA increase on the $12,000 of a public pension each year. Article 21 seeks to increases the base amount that a COLA increase applies to from the first $12,000 to the first $13,000 of a retirement allowance. Acceptance of this section will bring the pension COLA calculation for all Brookline retirees, save teachers and school administrators who belong to the Massachusetts Teachers Retirement System, in line with employees in the Massachusetts Teacher's Retirement System and in the State's Public Employee Retirement System. The Massachusetts Teacher's Retirement System and the State Public Employee Retirement System were authorized to apply COLA increases to the first $13,000 of a pension through enactment of Chapter 176 of the Acts of 2011.

By way of background, the Brookline Retirement Board is currently anticipated to fully fund its pension obligations by 2028. The funding schedule currently in force anticipates an annual return on investment of 8.15 percent. N.B. Separately, the Retirement Board will likely reduce its annual return on investment target during their next actuarial review. Currently, Brookline's pension board controls $212 million in assets, has total monthly expenses of $1.5 million (this figure includes both monthly pension payment obligations and administrative expenses) and is working toward reducing an unfunded pension liability of $170.9 million. It is also worth noting that the Town's contributes towards its employees' pensions. The Advisory Committee's FY13 recommended budget calls for a pension contribution of $15.42 million (a 5.5% increase over the budgeted amount in FY12); this payment is supplemented by employee contributions as follows:

- Employees hired after July 1, 1996 contribute 9% of their salary and an additional 2% on any compensation above $30,000.
- Employees hired between 1/1/84 and 7/1/96 pay 8% plus the 2% above $30,000
- Employees hired between 1/1/75 and 1/1/84 pay 7%. For those hired after 1/1/79, the 2% above $30,000 is also withheld
- Employees hired before 1/1/75 pay 5%

Assuming key assumptions such as annual return on investment are met, employees hired after 1/1/96 pre-fund the vast majority of their pension benefits through salary contributions. However, employees hired prior to 1996 contribute less toward the cost of their pension because of this group's lower contribution rates. Because of the complexity of the circumstances that surround calculating the exact cost and source of the dollars used to pay a pension (date of hire, date of retirement, investment performance overtime, circumstances of a retirement, etc…) it is impossible to generalize about how much an employee hired prior to 1996 self-funds their pension.

Finally, Brookline's average public safety pension in 2012 is $42,000 annually and the average non-public safety pension is $21,000. The size of the both public safety and non-public safety pensions, however, has increased over time as a result of normal increases in salaries. That is, the size of a sanitation worker's pension who retired in 1980 is smaller than the pension of the sanitation worker who retired in 2009.

The cost of annual COLA increases on the first $12,000 of pension benefits has been factored into the system's current funding schedule. Should the applicable section of state law be accepted by Town Meeting, the system's funding schedule will be revised to anticipate the possibility of a 3% COLA each year on the first $13,000 of benefits. This new funding schedule would determine the exact amount that Brookline would need to contribute to the Retirement Board annually between FY14 and FY28 in order to remain on track to fully fund the unfunded pension liability. The Retirement's Board's actuary estimates that the new COLA provision would add $300,000 to the annual pension appropriation in the first year after the change is made (roughly $30 in additional benefits per retiree). An actuarial assessment provided to the Advisory Committee by the Town indicated that increasing the COLA base would add more than $2 million to the unfunded pension liability. It should be noted that separately changes have been made to the membership criteria and has decreased the administrative expenses to slightly offset the increase to the funding schedule.

DISCUSSION:

Mr. Cirillo reinforced the equity issue discussed above as a determinate in the Retirement Boards recommendation of this increase. If Town Meeting fails to accept Section 19 of Chapter 188 of the Acts of 2010 town employees' pensions (i.e. non-teachers and school administrators) will be calculated in a different way than teachers and school administrator's pensions for no reason other than the fact that the pension are controlled by two different entities. This means that differences would exist even within benefits paid to School Department employees as custodians and clerical staff participate in the Town's retirement system while teachers and administrators are members of the Massachusetts Teacher's Retirement System.

As a means of comparing public pension benefits in Massachusetts to more widely available and frequently discussed retirement benefits, Mr. Cirillo pointed out that Social Security, which contains a COLA escalator, subjects the full Social Security benefit to COLA. Our retirees, however, do not receive Social Security benefits.

Mr. Cirillo informed the Committee that some of the reasoning behind the Pension Board's unanimous recommendation that the COLA base be increased was related to the fact that over the past several years several state laws have been passed which effect the benefits retirees are eligible for, when they are eligible for them, and how public pension benefits are calculated. The changes that have been made can be split into two broad categories: those designed to eliminate loopholes in the Commonwealth's pension laws and to eliminate legal but dishonest abuses of the public pension system (these changes apply to all current and future members of the system), and those designed to reduce the long term cost of operating the pension system and to update outdated pension rules (these changes would only apply prospectively). Therefore, not all of the changes made effect only abusers of the system; for example, the number of years of compensation history that are used to determine the size of a retiree's pension was recently changed. In recognition of the fact that changes have been made that effect all public retirees' pensions, the Brookline Retirement Board felt compelled to request that Town Meeting authorize an increase of the COLA base.

Cognizant of the fact that passage of this Warrant Article would have significant impact on Brookline's pension liability going forward, the Advisory Committee engaged in a prolonged discussion about the long-term cost of acceptance. The Committee heard that acceptance of Section 19 would increase the Town's pension contribution obligation by $2.25 million because of the Town's role as a partial funder of employees' pension. This is especially true at a time of daily fluctuations in return on investment and in the aftermath of the economic recession of 2008 when all pension fund balances, Brookline's included, declined precipitously.

A significant minority of committee members believed that the addition of $30 a year to retirees' benefits would not have a profound effect upon their lives, but the cumulative effect of payment of these additional benefits would have a significant negative impact upon the finances of the Retirement Board, and by extension the Town by requiring larger annual pension contributions – on the order of $300,000 annually.

A smaller sub-set of the Advisory Committee found the argument that potential variation between the benefits offered to different employees in Town as a reason to authorize increasing the COLA base to $13,000 uncompelling. It was noted that employees with different job functions in the private sector are routinely eligible for different benefits. Other members of the Committee noted that comparing the retirement benefits available to public and private sector workers is unfair as eligibility for Social Security, for example, differs between those employed in the public and private sectors. It is true that public employees are not eligible for Social Security benefits, or are eligible for only reduced benefits, because of agreements between the U.S. government and public sector employers in Massachusetts at the time of Social Security's inception.

Ultimately, a majority of the Advisory Committee was comfortable with increasing the COLA base to $13,000 in large part in order to maintain parity between similar sized teacher and non-teacher pensions. Some trepidation on the part of the Committee in

recommending Favorable Action on Article 21 was eliminated by assurance from the Pension Board, by way of Mr. Cirillo, that it felt able to meet the increased benefit obligation that would result from passage without needing to significantly extend the pension funding schedule beyond its current 2028 full funding date. That's important because do so could increase the overall pension cost substantially, though an additional $300K in annual funding would still be required.

RECOMMENDATION:

The Advisory Committee by a vote of 10-7-1 recommends Favorable Action on the following motion:

> VOTED: That the Town accept the provisions of Section 103(j) of Massachusetts General Laws Chapter 32, as amended by Section 19 of Chapter 133 of the Acts of 2010 to permit increases to the base upon which the cost of living increases may be granted to Town retirees from the first $12,000 to the first $13,000 of the retirement allowance.

## ARTICLE 22

### TWENTY-SECOND ARTICLE
Submitted by: Retirement Board

To see if the Town will accept the provisions of Section 20(6) *Retirement Board Members Compensation* of Massachusetts General Laws Chapter 32, as amended by Section 34 of Chapter 176 of the Acts of 2011, *An Act Providing for Pension Reform and Benefit Modernization* ("the Act.")

Or act on anything relative thereto.

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### PETITIONER'S ARTICLE DESCRIPTION

The Act substantively changes the retirement plan for public employees in Massachusetts by adjusting retirement benefits and by providing significant enhancements to the governance and operations of the Commonwealth's retirement boards.

This article is inserted in the warrant at the request of the Brookline Retirement Board, which voted on February 6, 2012 to adopt this section by a vote of four in favor, and one recussal.

Section 34 of the Act re-wrote G.L. c. 32, § 20(6) allowing a new local option provision that replaces the current $3,000 local option stipend and allows for an increase in the stipend paid to members of retirement boards. Currently, stipends for members of approximately two-thirds of retirement boards in the Commonwealth have been approved.

The section becomes effective on February 16, 2012. With reference to governance of retirement boards, the Act requires that retirement board members follow enhanced procurement requirements and apply increased fiduciary oversight of the retirement system's $200,000,000 investments. In addition, retirement board members must now undergo mandatory education and training, and must file annual statements of financial interests and acknowledgements of compliance with the conflict of interest and retirement laws. Penalties for non-compliance are substantial, and non-compliance may be considered a breach of fiduciary obligations for which a Board Member would be personally liable.

In recognition of the increased responsibilities and accountability of retirement board members, the Legislature has provided this local option.[1]

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[1] Section 34 of Chapter 176 of the Acts of 2011 provides as follows:

"Said section 20 of said chapter 32, as so appearing, is hereby further amended by striking out subdivision (6) and inserting in place thereof the following subdivision:-

Payment of the stipend is made from "funds under the control of the board," and would be funded from the system's return on investments. The Board Members' stipend is dependent upon acceptance of the law by a vote of the legislative body.

Although action by the local retirement board is not required in this process, the Brookline Retirement Board supports this increase, and respectfully requests that Town Meeting recognize the increased responsibilities of members of the Brookline Retirement Board by voting to accept this local option so as to provide a stipend to its members in the amount of not more than $4,500 per year.

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## SELECTMEN'S RECOMMENDATION

Article 22 was filed by the Retirement Board and would allow its members to be paid an annual stipend of not more $4,500. The stipend would be paid from the assets under the control of the Retirement Board, not from the Town's General fund. According to information provided by the Retirement Board, approximately 2/3's of the 104 local retirement boards have adopted this provision of state law and provide their members with an annual stipend.

In Brookline, just four of the nearly 30 boards and commissions receive stipends: Board of Assessors ($6,000 per year for the two resident members), Board of Appeals ($50 per meeting for each member, with the Chair receiving $140 per meeting) Board of Examiners ($30 per meeting for each member), and Board of Selectmen ($3,500 per year for each member, with the Chair receiving $4,500). The stipends for these boards are set by the Selectmen under the authority of MGL Ch. 41, Section 108.

The Town has numerous boards and commissions whose members work tremendously hard but do not get compensated. That reflects Brookline's volunteer-based form of government, where residents volunteer their valuable time to help make this community what it is. In the interest of fairness, the Selectmen do not recommend singling out the volunteer members of one particular board at this time.

This belief should not be viewed as a lack of appreciation for the Retirement Board's efforts. This Board fully acknowledges the hard work of the Retirement Board over the past years, years that have been quite challenging. The Retirement Board has performed

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(6) *Retirement Board Members Compensation*.-The elected and appointed members of a city, town, county, regional, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend; provided, however, that the stipend shall not be less than $3,000 per year and not more than $4,500 per year; provided, further, that the stipend shall be paid from funds under the control of the board as shall be determined by the commission; and provided, further, that an ex-officio member of a city, town, county, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend of not more than $4,500 per year in the aggregate for services rendered in the active administration of the retirement system."

well when compared against the broader stock market indices, and the pension fund is in better condition than it would otherwise be. Consider the following: the Brookline pension fund has performed better than the Dow Jones Industrial Average in four of the past five years. This is proof of their strong stewardship.

For the Board, this issue comes down to providing the Retirement Board a stipend while other equally deserving boards and commissions go without one. As a result, the Selectmen recommend NO ACTION, by a vote of 5-0 taken on April 24, 2012 on Article 22.

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ADVISORY COMMITTEE'S RECOMMENDATION

The Advisory Committee's recommendation will be included in a Supplemental Report to be mailed prior to the commencement of Town Meeting.

***XXX***

# ARTICLE 22

## ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
Brookline's Pension Board inserted Article 22 into the Warrant in order to obtain Town Meeting acceptance of a section of state law (M.G.L. Ch. 32, § 20(6)) which authorizes the payment of a stipend to members of a municipal retirement board.

Should Town Meeting vote Favorable Action on Article 22, and accept the applicable section of state law, Brookline Retirement Board members would be able to receive a stipend of not more than $4,500 per year. As an aside, a recently passed law increased the amount board members are allowed to receive as a stipend from $3,000 a year to the present no more than $4,500 a year. According to information provided to the Advisory Committee, 2/3 of Massachusetts' 104 retirement board members currently receive a stipend of some size.

Currently, Brookline Retirement Board members do not receive a stipend of any amount. Board members are, however, reimbursed for their expenses when they need to travel as part of their retirement board duties; for example, to attend a training session or a continuing education class.

By way of background, the Brookline Retirement Board is made up of five members: two members who represent the membership of the retirement system, one member appointed by the Selectmen, the Town's Comptroller, and a Brookline resident. It has been the practice of the Selectmen for at least the past several years to use their appointment to place Brookline's Finance Director on the board. Currently, two of the five members are employees of the Town.

The Advisory Committee was told that Brookline's Retirement Board submitted Article 22 because of increased reporting and continuing education requirements that have been placed on board members through various pieces of pension reform that have been enacted over the past three years.

As a result of several recently passed pieces of pension reform legislation board members now must disclose detailed information about their personal financial situation (retirement accounts, bank account information, outstanding loans and mortgages, certain business interests) as well as financial information about their immediate family members. The increased reporting requirements were put into place in order to improve transparency and are in keeping with the recent trend toward more open government. In addition to increased reporting requirements, recent pension reform legislation also requires that board members attend a minimum of 15 hours of financial education classes

annually. These classes are provided free of charge by PERAC (the state's pension authority).

The Advisory Committee was told that the new requirements outlined above have put a tremendous burden on retirement board members across the state, and especially upon members of the public who presumably give up time and money (in the form of lost wage) to attend board meetings and the mandated trainings. Anecdotally, the Committee was told that many municipal retirement board members in Massachusetts are considering resigning their board membership because of the increase burden.

Should this Warrant Article be approved, any stipends would be paid from "funds under the control of the board."

DISCUSSION:

Members of the Advisory Committee were curious to know more about the education and increased reporting requirements that caused the retirement board to submit this article for Town Meeting's consideration. According to Mr. Cirillo, who appeared before the Advisory Committee to speak about this Article although he recused himself from deliberation about the subject when the Retirement Board discussed it at their meeting, the new requirements increase the workload that a board member must take on outside of their core responsibility of oversight of the retirement board's operations and investments. The mandated financial disclosure requirements mean that board members must collect and compile financial information about those individuals they are required to report about, including themselves. This can be a time consuming task. The Committee was informed, however, that the new education requirement that is most onerous of the recently enacted changes for board members. While board members do have a choice of classes to attend, not all classes are local and they are sometimes during normal business hours. It was the impression of the Advisory Committee that in meeting the annual financial education requirement, retirement board members had some ability to pick and choose the classes they want to attend, but that being too selective came at the expense of flexibility in the time and location of the class.

The Advisory Committee also spent time discussing which other Town boards and commissions receive compensation for their service. According to a memo provided to members of the Board of Selectmen dated April 20, 2012 from the Town Administrator, and which was also provided to members of the Advisory Committee, five Brookline Boards or Commissions currently receive a stipend ranging from $30 a meeting to $6,000 per annum (the Board of Registrars, the Board of Appeals, the Board of Examiners, the Board of Selectmen and the Board of Assessors).

Several members of the Advisory Committee noted that even though state law has instituted several new requirements on members of the retirement board, it is important not to lose sight of the fact that the majority of members volunteered for service on the board. Brookline has numerous board and commissions whose members are not compensated for the many hours they spend formally and informally working to make

Brookline a great place to live. These same members expressed the sense that it seemed unfair to compensate one board for their service while leaving members of equally hard working boards and commission uncompensated.

There was general agreement among the majority of Committee members that they objected to Article 22 because they believed it would force the Town to increase its annual contribution to the pension system in future years. While the Brookline Retirement Board is outside of Town government's control, it is dependent upon an annual contribution from the Town toward the pension benefits it pays to retired Town employees. Some members of the Committee believed that the payment of stipends would, eventually, force the Town to increase its pension contribution as money formally used for other purposes would be redirected to fund stipends thereby reducing the funds available for investment or the amount available for payment as benefits.

Prior to taking a vote on Article 22 the Advisory Committee engaged in a lengthy discussion about where retirement board stipends should be paid from if Article 22 was to pass. The majority of Committee members agreed that stipends should not be paid out of returns on investment or through the liquidation of securities held by the retirement board; using either of these sources of funds was agreed to be counterproductive. Instead, it was suggested that stipends should be paid out of the contributions made by the Town and system members. No vote was taken on this issue, but a majority of committee members appeared to agree that whenever possible the liquidation of securities to pay any expenses, stipends or otherwise, should be avoided.

RECOMMENDATION:
The Advisory Committee by a vote of 7-10-1 recommends No Action on Article 22.

ARTICLE 23

TWENTY-THIRD ARTICLE
Submitted by: Lee L. Selwyn, Town Meeting Member, Precinct 13

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 AMENDING CHAPTER 317 OF THE ACTS OF 1974, AS AMENDED, TO PROHIBIT CONTRAFLOW BICYCLE LANES IN THE TOWN OF BROOKLINE**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. The purpose of this Act is to require approval by a majority vote of Town Meeting of any contraflow bicycle lanes within the Town of Brookline.

SECTION 2. Section 4 of chapter 317 of the Acts of 1974 is hereby amended by inserting the following sentence immediately after the second sentence in the second paragraph of Section 4:

Notwithstanding the foregoing or any general or special law to the contrary, no contraflow bicycle lane, defined as a marked-out travel lane reserved for the exclusive use of bicycles for travel on one-way streets in a direction opposite to that permitted for motor vehicles on such streets, or on two-way streets in a direction opposite to that permitted for motor vehicles in the adjacent travel lane, shall be permitted within the Town of Brookline without first having been approved by a majority vote at Town Meeting, and the Board's rules and regulations shall not permit such contraflow bicycle lanes to be established without Town Meeting approval.

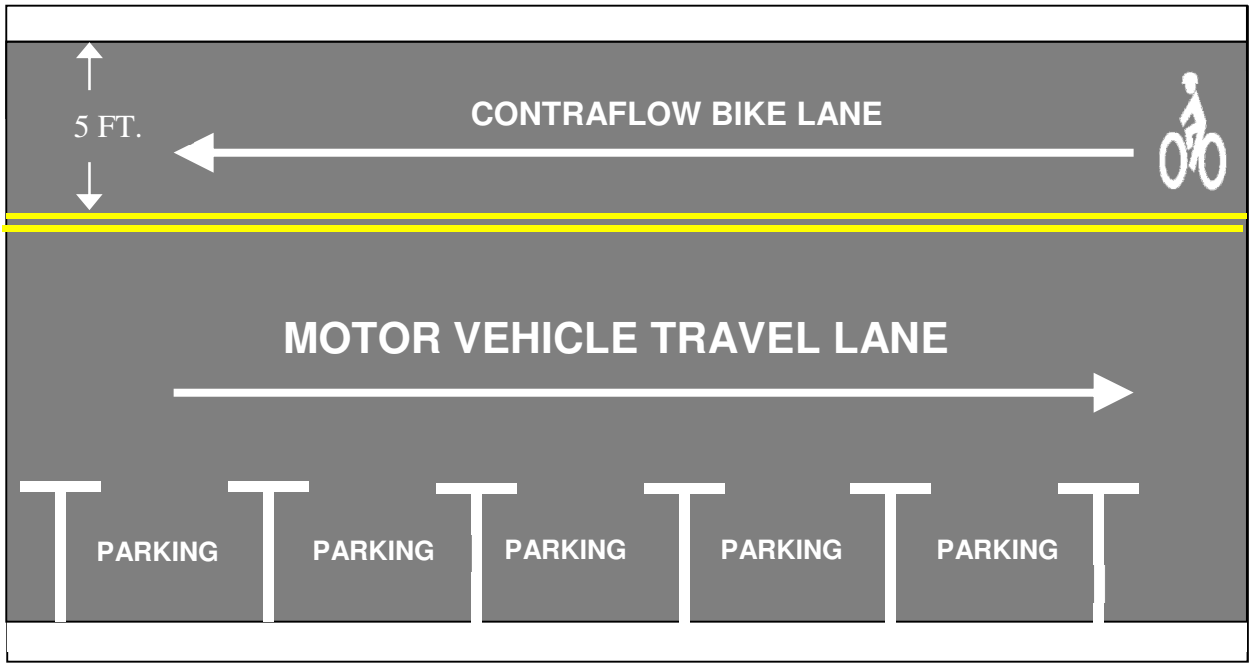
SECTION 3. This act shall take effect upon its passage.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Brookline Transportation Board has recently voted to authorize and implement so-called "contraflow" or, more descriptively, "wrong-way" bicycle lanes on certain one-way streets within the Town. A "contraflow" bicycle lane is a marked-out travel lane reserved for exclusive use by bicyclists for travel in a direction opposite to that permitted for motor vehicle travel on such one-way streets or, on two-way streets, in a direction opposite to the direction permitted for motor vehicles in the adjacent travel lane. The "contraflow" lane will be approximately five (5) feet in width and will be separated from the motor vehicle travel lane by a double yellow line painted on the road. The width of

the remaining motor vehicle travel lane will thus be correspondingly narrowed by this same five (5) feet. Motor vehicles will not be permitted to use the "contraflow" lane in either direction. Parking on streets with contraflow bicycle lanes will be permitted only on the side of the street opposite the contraflow bicycle lane, for one-way streets this will generally be on the right-hand side of the street relative to the direction of motor vehicle travel. The diagram below illustrates the manner in which such lanes will be designated. One-way streets are ordinarily identified by "DO NOT ENTER" signs placed at each "outflow" intersection and by "ONE WAY" signs at "inflow" intersections indicating the allowed direction of motor vehicle travel. On one-way streets with contraflow bicycle lanes, the "DO NOT ENTER" signage at intersections at outflow ends of the one-way street will be identified by signage indicating "DO NOT ENTER EXCEPT BICYCLES" or words to that effect.




Contraflow or wrong-way bike lanes create safety and other concerns for drivers, pedestrians in general and for handicapped pedestrians in particular, as well as for residents on the affected streets. The benefits to bicyclists of contraflow bike lanes must be weighed against the negative impacts such contraflow bike lanes would have upon pedestrians, drivers, and residents on the affected streets. These are policy considerations that should be addressed and resolved on a Town-wide basis and with input from all affected persons not unlike the process afforded other matters that routinely come before Town Meeting. This Article will afford elected Town Meeting Members the opportunity to address and resolve this important policy decision on a Town-wide basis, one way or the other.

The process by which the Transportation Board considers – and ultimately authorizes – the creation of contraflow bicycle lanes is initiated by the "Bicycle Advisory Committee." The Bicycle Advisory Committee is an *ad hoc* committee whose members are selected and appointed by the Transportation Board. The Brookline Bicycle Advisory Committee's stated mission is "to improve conditions for bicycling and to promote

bicycling by children and adults, for both transportation and recreation." http://www.brooklinebikes.org/ (visited 2/28/12). There is no indication that the Transportation Board has adopted any formal process for reviewing such proposals, or for affording others who might be affected by their adoption to provide input to the Board's deliberations. Absent such a process, there is no assurance that in evaluating proposals for specific contraflow bike lanes, the Board will give sufficient consideration as to how actions intended to "improve conditions for bicycling and to promote bicycling by children and adults" – such as the creation of contraflow bike lanes – may adversely affect safety and other concerns of pedestrians, motorists, residents, and others.

Traffic laws are a type of social contract among all who use our streets and roads, and in exchange for each individual's compliance with them, create an expectation that others will comply as well. Drivers stop at red lights and, when the light turns green for them, have a reasonable expectation that the drivers on the intersecting street will stop at the red light facing them and not enter the intersection. Pedestrians have similar expectations. In the case of one-way streets, both drivers and pedestrians have an expectation that traffic will be coming at them from one direction only. Bicycles travel at speeds comparable to those of automobiles and are expected to obey the same traffic laws as automobiles. Yet bicyclists are not required to obtain a license, are not required to carry personal injury liability insurance, are not required to display any identification tags on their bicycles, and are subject to minimal fines for violating traffic laws (e.g., for running a red light or for going the wrong way on a one-way street), fines that are significantly lower than those applicable for motor vehicle moving violations, and that have no insurance premium consequences for the bicyclist. Yet a collision between a bicycle and a pedestrian will frequently result in serious injury to the pedestrian, sometimes just as serious as having been hit by an automobile.

On January 19, 2012, the Transportation Board published its Agenda for its January 26, 2012 meeting. Included therein were considerations of proposals for contraflow bicycle lanes on Green Street, Park Street, and Dudley Street. Following the publication of the agenda and prior to the January 26, 2012 Transportation Board meeting, a number of Town Meeting Members and other Brookline residents sent e-mails to the Chairman of the Transportation Board expressing their concerns and their opposition to these proposals. Following are examples of the specific concerns that were raised in these e-mails:

From Lee Selwyn, TMM Pct. 13, January 19, 2012:

> I think that you need to be extremely cautious about allowing what you are calling "contraflow" – and what I would call "wrong-way" – bike lanes on one-way streets. In addition to the obvious concerns regarding collisions with cars, a bike traveling in the wrong direction on a one-way street creates an enormous problem for pedestrians who have an entirely reasonable expectation as to which direction to look before crossing the street. This would be a particular problem for visually-handicapped pedestrians who have a difficult enough time seeing an oncoming bike even if travelling in the same direction as car traffic, and who would be even less able or likely to see a bike travelling in the wrong direction.

> We have bicyclists in Brookline riding on the sidewalk, not stopping at traffic lights, weaving through traffic, and in general ignoring traffic laws. "Legalizing" going the wrong way down a one-way street is a step in the wrong direction (pardon the pun), and will serve only to escalate the already substantial friction between bicyclists and the rest of us. ...
>
> A one-way street is just that, and bikes should be required to use it in exactly the same manner as other moving vehicles.

From Jonathan Margolis, TMM Pct. 7, January 19, 2012:

> In many cases, establishing bike lanes that go against traffic will be confusing, and the existence of such lanes is likely further to undercut attempts to get cyclists to obey the traffic laws.
>
> I live on a one-block long one-way street. Cyclists frequently ride the wrong way. They are a danger to pedestrians, but also to themselves, and to motorists who are using the street lawfully.
>
> Why should we reward bad behavior – especially when we are trying to get riders to obey the traffic laws. Can't cyclists – many of whom brag about how many miles they ride each week – go around the block?

From Carol Hillman, TMM Pct. 1, January 19, 2012:

> ... We have enough trouble with bicycles in the wrong place, no lights at night etc. etc. without having to worry about them going the opposite way on a one way street. Think London and crossing the street for Americans. ...
>
> I'd hate to be the pedestrian "experimented" on when a bike "flattens" me going the wrong way on a one way street.

From Betsy Shure Gross, TMM Pct. 5, January 19, 2012:

> ... Not only is it almost impossible to cross streets in Brookline with crutches and/or a cane given the timing of the "'WALK" signs, it will be a travesty to also have to deal with bicycles coming from the "wrong" direction when they are already a threat to life and (impaired) limbs as it is! And, of course, I am thinking of activities during the daylight hours. Impossible to contemplate such conditions in the dark.....

From Lee Selwyn, TMM Pct 13, January 20, 2012:

> We have bikers riding on the sidewalks even on streets that have marked-out bike lanes. We gave them their bike lanes and yet many still won't use them. And as to what people with visual impairment can or can't do or do or don't do, here's some additional information that might help to make these concerns clearer.

> ... a visually impaired individual must necessarily be more careful about crossing a street and watching out for oncoming traffic. Cars are far more easily seen than bikes, for several reasons. First, they are BIGGER. Second, they tend to have BRIGHTER HEADLIGHTS. Third, they are NOISIER – it's almost impossible to "hear" a fast-approaching bike. And fourth, they are far more likely to obey traffic laws than bikes (with the possible exception of failing to stop at crosswalks, which is still a big problem).
>
> Bikes often go the wrong way on one-way streets, but that is hardly a basis to make such conduct legal. I'm really having difficulty understanding what purpose is served by allowing wrong-way biking. Perhaps someone can explain why bikes need this wrong-way travel carve-out, and why bikes, which can and often do travel at the same speeds as cars, should get a pass with respect to traffic laws?

From John VanScoyoc, TMM Pct. 13, January 24, 2012

> As an avid bicyclist who cops to occasionally breaking some rules on my rides around town, nonetheless I have to complicate this discussion: I side with those who question the wisdom of contra-flow bike lanes. From my experience, they are contra-intuitive, contra-protective, contra-safety and thus contra-sensible. At best, a last resort if no other accommodation for bicyclists is available.

Similar and even more specific concerns were raised by persons attending the January 26, 2012 Transportation Board meeting. In particular, strong opposition to the proposal was expressed by residents of the affected streets. Several residents of Park Street noted that while there is a parking lane on the west side of the street (i.e., on the right-hand side in the southbound direction of travel), it is sometimes necessary for a car to pull up on the opposite side to unload packages and/or to pick up or drop off an elderly passenger. The carve-out of a wrong-way bike lane would preclude this. Residents of Dudley Street expressed concerns regarding the poor lighting and the difficulty of seeing an oncoming bicycle after dark. While these concerns were noted by the Transportation Board members, they were given short shrift.

Contraflow or wrong-way bike lanes may offer certain minor conveniences for bicyclists, but they present serious and legitimate safety concerns for motorists and pedestrians and for those living on the affected streets. These safety concerns easily outweigh the modest gains in convenience for bicyclists and, indeed, some of these safety issues also apply to bicyclists themselves. One-way streets in Brookline are narrow – which is often why they were designated as “one way” to begin with – and often serve densely populated areas. In the less densely populated areas (e.g., Dudley Street), the one-way streets are often winding and poorly lit, further impairing visibility.

This Article will provide a means by which the potential benefits to bicyclists that might result from specific contraflow bike lane proposals can be weighed against the potential threats to public safety that these wrong-way bicycle lanes may create. Specific contraflow bike lane proposals would be recommended by the Transportation Board (or others) in the form of Warrant Articles submitted for Town Meeting approval. Comments on such proposed Warrant Articles could be offered by the Council on Aging,

the Commission for the Disabled, and affected individuals. The Transportation Board, either on its own or with the guidance of Town Meeting, can and should adopt a formal process for considering contraflow bike lane proposals, including the development of a set of guidelines to identify possible locations, posted Transportation Board site visits for evaluation, notices mailed to abutters, and written post-implementation analysis. A requirement for formal approvals from the Council on Aging and the Commission for the Disabled could also be considered.

Under the existing legislation, Transportation Board decisions of this type may be appealed, but only on a case-by-case basis, to the Board of Selectmen which, by a majority vote, has the authority to reverse them. And even with respect to such appeals, there are no existing guidelines to assist the Selectmen in their review of the Transportation Board's action. The "home rule" petition being proposed in this Article would limit the Transportation Board's authority with respect to contraflow bike lanes to that of developing recommendations to be submitted for Town Meeting approval and, in so doing, would encourage the formulation of fair and balanced guidelines to assist in this process.

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## SELECTMEN'S RECOMMENDATION

The Board of Selectmen's recommendation will be included in a Supplemental Report to be mailed prior to the commencement of Town Meeting.

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 23 is a citizen-petitioned article meant to address the implementation of so called "contraflow bike lanes". Specifically, it is a resolution asking that contraflow bicycle lanes not be implemented in Brookline until the Transportation Board has finalized and made available a set of standards for the process of determining the suitability of contraflow lanes.

Contraflow bicycle lanes are placed in the opposite direction of motorists on "one-way" streets. Their use is governed by various federal and industry regulations and standards. The purpose of contra-flow bicycle lanes includes:

- making it safer for cyclists to go the opposite way on one way streets
- allowing bicyclists to travel a more efficient route in circumstances where the pattern of one-way streets requires a longer, inconvenient route
- ensuring that all street users know where they belong

Also, contraflow bicycle lanes are used to reduce the speed of cars, benefiting pedestrians. They are implemented where both travel time and risk can be significantly reduced.

Not everyone is convinced of the benefit of this approach, however.

The amended Article 12 is the fourth version of an effort to better manage the implementation of contraflow bicycle lanes:

- first version, a legal ban on contraflow bicycle lanes in Brookline
- second version, a legal transfer of authority over contraflow bicycle lanes from the Transportation Board to Town Meeting, notwithstanding that the latter has the right to appeal all the former's decisions
- third version, a resolution, wherein its scope was expanded to comprehend all bicycle related issues, and introduced a burdensome process
- fourth version, a resolution that narrowed its scope to contraflow bicycle lanes and reduced some of the procedural burden of the third version

It is this fourth version that is to be considered by Town Meeting.

DISCUSSION:

The article reflects the petitioner's (i) very sincere concerns for the behavior of bicyclists and (ii) belief that contraflow bicycle lanes are inherently dangerous and unsafe. The several versions of the article show responsiveness to comments raised during the hearing process that the remedies proposed (i) resulted in an unnecessarily burdensome process, (ii) presented needless obstacles and (iii) was viewed by some to be punitive towards bicyclists. This movement, as is seen in the Advisory Committee vote, satisfied a majority of the Committee to support the amended language.

Behavior of bicyclists was a major topic of discussion, as was the behavior of motorists and pedestrians. There was agreement that all groups have populations that do not behave well. The Police Department talked about increased bicyclist enforcement efforts. The Committee does not believe this article will contribute to improved bicyclist behavior.

There was specific discussion of contraflow bicycle lanes. The petitioner has characterized contraflow bicycle lanes as "wrong way", suggesting they are inherently dangerous and unsafe. LivableStreets, an organization that advocates for safe streets for all users, presented information on such lanes, including their safety history. It should be noted that as bicyclists' interests continue to compete with those of motorists and pedestrians, innovative ways to share the streets will be introduced; they should not be miscast as dangerous and unsafe because they are unusual. Each case will be unique. Beyond contraflow matters, LivableStreets also may serve to educate the town to better understand bicycling management and other practices. Brookline has had no reported safety issues arising from contraflow bicycle lane use, and that is the similar experience of other communities where they have been adopted.

Much focus was directed at the Transportation Board, the Bicycle Advisory Committee, and the Transportation Department. The vote of the Advisory Committee reflected a concern for (i) the existence, sufficiency, and public knowledge of the Transportation Board's policies, practices, standards, guidelines, and decision making and (ii) its

subjective consideration of situational facts and circumstances that are difficult to codify. As the Transportation Board considers contraflow bicycle lanes, its decision making process needs to be clear to all those sharing the roads in Brookline.

This resolution asks the Transportation Board to develop and adopt clear criteria for the establishment of contraflow lanes, with input and comments from a variety of groups, and make those criteria available to the public prior the institution of contraflow lanes in town.

RECOMMENDATION:
The Advisory Committee, by a vote of 12-8-1, recommends FAVORABLE ACTION on Article 23, as amended below:

VOTED: That Town Meeting adopt the following Resolution:

WHEREAS, the use of bicycles on Brookline streets has been increasing in recent years, and continued growth in bicycle use is expected; and

WHEREAS, the Town's various streets and ways are shared resources that serve the needs of various categories of users including, in addition to bicycles, automobiles and other motor vehicles, pedestrians, and abutters; and

WHEREAS, the safe use of the Town's streets and ways by all categories of users is an important function of Town government and should be encouraged and facilitated by all agencies and departments of Town government; and

WHEREAS, good public policy requires that potential conflicts between and among the various categories of users of Brookline streets and ways be identified and addressed proactively so as to minimize the potential for injury while affording each category of user the maximum safe enjoyment of these shared resources consistent with valid public safety concerns; and

WHEREAS, recent and ongoing efforts to establish so-called "contraflow" bicycle lanes on certain one-way streets, allowing bicycles to travel in a direction opposite to the expected flow of traffic, raise legitimate safety concerns, particularly for the visually impaired and for pedestrians with other disabilities, for the elderly, and for abutters; and

WHEREAS, the relative merits and standards for adoption of contraflow bicycle lanes, including the implementation of additional accommodations to address concerns of all affected stakeholders, should first be considered comprehensively as a matter of policy for the Town so as to recognize and balance the interests and concerns of all affected stakeholders, before individual proposals for specific streets are evaluated and the number of streets with contraflow bicycle lanes is expanded;

NOW, IT IS THEREFORE RESOLVED

(1) that prior to approval of any regulation or condition that would allow bicycles to travel in a direction opposite to that permitted for motor vehicle traffic on one-way streets, the Brookline Transportation Board should first undertake to formulate and publish for public comment a set of detailed and specific guidelines for consideration of proposals for contraflow bicycle lanes that should include, at a minimum, (a) specific standards for evaluation of safety concerns raised by all affected users, (b) mitigation measures that might alleviate some of these safety concerns, and (c) policies that fairly and fully address, consider and balance the interests and safety concerns of all who may be affected by the establishment of contraflow bicycle lanes; and

(2) that in developing such guidelines the Transportation Board should affirmatively solicit input and comments from the Brookline Commission for the Disabled, the Brookline Council on Aging, and such other Brookline government and non-governmental bodies and individual neighborhood associations that have a legitimate interest in the development of such guidelines, and based thereon should formulate and through a public process adopt such guidelines as a basis for all actions pertaining to the creation of contraflow bicycle lanes in Brookline.

***XXX***

# ARTICLE 23

## BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Selectmen will be considering the following motion at their meeting on May 22:

VOTED: That the subject matter of Article 23 be referred to the Transportation Board for further consideration and a report back to the Annual 2013 Town Meeting.

Explanation:
This motion would refer Article 23 back to the Transportation Board for consideration without imposing a "hold" on the creation of contraflow bike lanes until the Transportation Board has created a set of guidelines.

However, we believe it is in the interest of all of all stakeholders: pedestrians (who may be children, senior citizens, and the disabled), drivers of motor vehicles, abutters and bicyclists, to understand the impact of individual proposals for specific streets. It is also in the interest of all users to be informed about how new roadway applications are evaluated.

It seems fair to expect that the Transportation Board will adequately explain the reasons for its decisions and demonstrate that it has considered not only factors that weigh in favor of contraflow lanes but also factors that weigh against such lanes. Ultimately, this should be true of any new traffic patterns or shared roadway applications, whether it be the creation of a new one-way street, closing a street (an issue of contention in the past), traffic calming measures (which are the subject of written procedures), shared lanes, separate bicycle lanes, or contraflow lanes. We believe that the Transportation Board can and should make an effort to articulate and catalogue the factors that might influence their decisions to change existing traffic patterns.

With respect to contraflow lanes, for example, the vetting process of Article 23 has already identified a number of the factors that could impact the decision. Certain factors (which, in fact, other communities have articulated in writing) may be indicators of the appropriateness of a contraflow lane, including the ability of a short contraflow connector to provide a substantial savings in travel distance; the ability to avoid high-volume, high-travel streets; sufficient street width; no or few intersecting driveways, alleys or streets; and the ability of cyclists to safely enter and exit the contraflow lane. The discussion of Article 23 has identified other factors that may weigh against contraflow lanes, including not only the absence of the foregoing favorable factors (which focus on cyclists), but also such factors as pedestrian traffic that could be endangered by bicycles coming from an unexpected direction; the presence of elderly or disabled (including visually disabled)

pedestrians; the impact on abutters (including the loss of parking spaces or same-side parking spaces in commercial or residential areas); the lack of lighting; and restricted sightlines where bicyclists may be emerging against the flow of motor traffic. Seasonal issues may also arise in our area, including contraflow lanes being reduced in width or entirely lost as a result of street snow plowing.

Furthermore, we do not believe that it asks too much for the Transportation Board to give some thought to the factors that may be involved in the creation of new traffic patterns in general, albeit with an initial focus on contraflow lanes. The list may not be exhaustive because site-specific issues may arise, but it will at least provide citizens with some advance notice of the sorts of issues that could be relevant during public hearings. It will enhance the transparency of the process by providing a template so that citizens can be assured that the interests of all who may be impacted by the use of our public ways – including motorists, bicyclists, pedestrians, public safety vehicles, and abutting residents and businesses – will be considered. In the long run, this can only enhance the clarity, transparency, and credibility of the decision making process.

The discussion triggered by Article 23 and the petitioner's concerns about these issues merit the attention of Town Meeting. We do not believe that the public interest would be served by dismissing them. At the same time, we do not believe that an explicit "hold" on new contraflow lanes is required. We are confident that, if Town Meeting simply refers this matter, the Transportation Board will take seriously the concerns raised during the discussions of Article 23. In the end, we are confident that the Transportation Board will explicitly consider the interests of all potentially affected stakeholders, will reach out to the Council on Aging and the Commission for the Disabled in the process, and will do so not only in the articulation of generally relevant factors but also when considering specific proposals that may arise in the interim.

ARTICLE 24

TWENTY-FOURTH ARTICLE
Submitted by: Frederick S. Lebow

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 thirteen, 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

[Petitioner is also contemporaneously filing a separate and companion warrant article in the form of a resolution, asking that the Board of Selectmen petition the Legislature to abolish the Norfolk County government. The Explanation provided here is also intended to supplement the Explanation for the companion warrant article.]

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), with the result that most Massachusetts counties currently exist only as geographic regions having no county government (such as a county council or commissioners). 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 (who are still elected locally to perform duties within the county region) 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's government 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 2013, the County assessment for Brookline is nearly $715,000. (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 2013, Brookline is the largest contributor, accounting for 13% of the total tax levy of all 28 contributing communities. On the other hand, cities and towns, in counties not having a county government, pay no county assessments, such as, for example, Boston, Cambridge and Newton.

One may well question what the citizens of Brookline get for $715,000 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 surveying 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.

Contemporaneously, and as a second avenue to reach the same result, Petitioner is also filing a separate and companion warrant article in the form of a resolution asking that the Board of Selectmen request that the Town's legislative delegation petition the Legislature to abolish the Norfolk County government. It is important to understand that the requested action in the companion warrant article is not to abolish Norfolk County as a geographical/political region, only the county government overlay. Most Massachusetts counties no longer have county governments – they have previously been abolished by the State Legislature. These counties still remain as geographic and political entities, except that the county government functions have been put under the direction of state offices.

We believe it is time to act. Brookline's annual assessment has grown from $572,000 in Fiscal 2006 to nearly $715,000 in Fiscal 2013. During that period, Brookline has paid Norfolk County in excess of $5 million in assessments.

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## SELECTMEN'S RECOMMENDATION

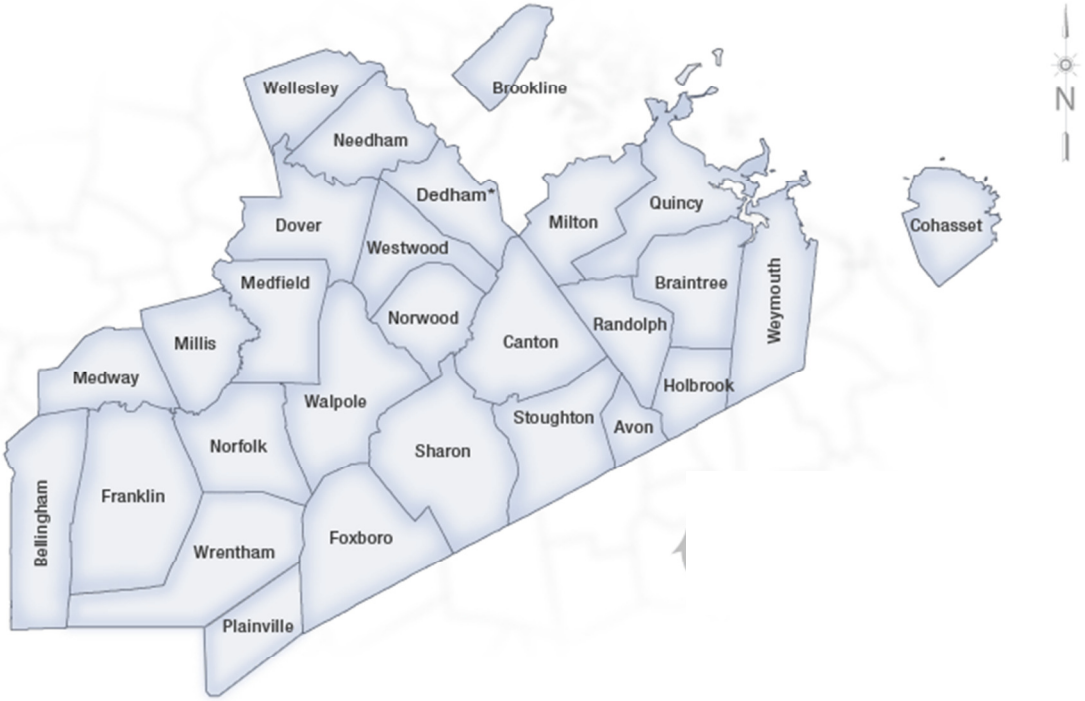
Article 24 is a petitioned article that seeks Home Rule legislation to remove Brookline as a member community of Norfolk County. This issue was before Town Meeting three

[1] See the Secretary of State's web site at www.sec.state.ma.us/cis/cisctlist/ctlistidx.htm

before: in November, 2011 (Article 11), May, 2011(Article 21), and May, 2005 (Article 21). The core of the issue is the Town's annual assessment, which is more than $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. Brookline is not contiguous with Norfolk County because it resisted annexation by Boston (Suffolk County), which abuts Brookline on three sides. Newton (Middlesex County) forms the fourth side.




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 (the State actually operates the courts)
- Norfolk County Agricultural High School
- President's Golf Course in Quincy
- Registry of Deeds (with most revenue going to the State)
- Sheriff's Department
- Engineering Services for Communities (largely surveying and largely unused in Brookline)

- Retirement Board Administration (separate from the Brookline Retirement Board)

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, since Brookline is funding 13% of the County's budget, most of any of the 28 member communities.

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 "County Tax"), the Commonwealth of Massachusetts, and various grants. The County Tax will total $5.4 million in FY13, with Brookline providing $715,791 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 24

As proposed, and if the State legislature acted according to the warrant article, Brookline as a municipality would no longer be a member of Norfolk County as of July 1, 2013. 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). In addition, Brookline is legally obligated for a share of non-discretionary liabilities such as pension funding and debt.

CONCLUSION

It is quite evident that Brookline does not make use of 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.

As of the close of the warrant, little progress had been made in finding a legislative solution to the inequities of the current system of Norfolk County municipal assessment. Since the close of the warrant, the Norfolk County Commissioners have filed a bill (House docket No. 04304, filed on March 9, 2012) which would rectify the inequities of the current system by funding Norfolk County government functions and legacy costs through means other than municipal assessments. Though a legislative solution based on Article 24 seems unlikely, Town Meeting's affirmative vote on the Article will send a message to our State legislature that Brookline seeks a speedy solution to the problem. As opposed to Warrant Article 25 Article 24 would not eliminate county services for other Norfolk County communities. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 17, 2012, on the motion offered by the Advisory Committee.

**ROLL CALL VOTE:**
Favorable Action
DeWitt
Daly
Benka
Goldstein

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ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Concern about Brookline's relationship to Norfolk County has been brought to the attention of Town Meeting three times previously in the recent past. The Annual Town Meeting in 2005 voted to establish a Moderator's Committee on the topic. The topic was also considered at the 2011 Annual Town Meeting and again at the 2011 Special Town Meeting. Extensive background information is provided in the Combined Reports for the two Town Meetings held in 2011. The reports are available on the Town website in the Town Meeting section. Also available is an Interim Report on Norfolk County Finances issued by the Board of Selectmen in September 2011.

In contrast to most of the rest of the United States, county government in Massachusetts is relatively weak. In much of Massachusetts county government no longer functions. Instead, State government has assumed responsibility for core services previously provided by counties. Middlesex County to which both Newton and Cambridge belong is an example of such a county. Norfolk County continues to function as a governmental

entity. Brookline's relationship to Norfolk County is a source of concern for several reasons:

- Brookline is not geographically contiguous with other municipalities in the County;
- Brookline makes little or no use of services provided by the County (e.g., engineering, an agricultural high school, a Retired Senior Volunteer program, and a public golf course in Quincy);
- Major "County" services used by Brookline are financed by State government, notably the Registry of Deeds, the court system, and the penal system;
- Brookline pays over $700,000 annually for Norfolk County services;
- Because county taxes are based on property assessments and Brookline's property values are greater than those of any of the other 27 municipalities in the county, Brookline pays a larger share than any other municipality. Brookline pays 13% of the revenue generated through property taxes.

In the past, a majority of Town Meeting members have expressed interest in a modified relationship to Norfolk County that would either reduce Brookline's financial obligations, improve services to Brookline, or both. Succession from Norfolk County has been proposed as one way to eliminate the Town's financial obligation to the County. Many Town Meeting members have opposed severing relationships with Norfolk County because of concern about possible implications for the Brookline court house which is owned by Norfolk County. Police Chief Richard O'Leary has spoken in the past about the importance for his department of proximity to the court house. However, no definitive information is available about what if anything would happen to the operation of the Brookline Court House if Brookline terminated its participation in services operated by Norfolk County government.

Brookline cannot unilaterally modify its relationship to Norfolk County. Action by the Legislature would be needed to sever the Town's relationship to the County.

The Special 2011 Town Meeting held in November considered proposals nearly identical in wording to the motions that will be considered under Articles 24 and 25. By a wide margin, Town Meeting voted "No Action" on both motions.

The only notable development since November is that a bill has been filed in the Legislature asking that Norfolk County services be financed entirely by a portion of fees collected by the Registrar of Deeds on property transactions. County Commissioners would cease generating revenue through property taxes. Some of the revenues generated by the Registrar of Deeds would be placed in a trust fund to pay for post-employment benefits for former County employees. The bill was filed in March. Representative Frank Smizik is the lead sponsor with 11 cosponsors.

Because of the late filing, the bill is not likely to get a hearing during the current session.

<u>DISCUSSION:</u>
The proposal is politically significant as a means for Brookline to assert its frustration over its current arrangements with the County. As a legislative proposal Article 24 is

incomplete because it does not address Brookline's financial obligations to retired County employees. County Administrator Dan Matthews has stated that all of Brookline's current annual assessments go to pay for pensions and health insurance for retired county employees. The County's unfunded liability for health insurance benefits for retirees is estimated at $50 million; its unfunded pension liability is estimated at $30 million. Presumably, Brookline's financial obligations to those retired employees would continue. However, Brookline's obligations to future retirees would eventually be eliminated.

The likelihood of favorable action by the Legislature is a matter of speculation. The other municipalities served by Norfolk County could be expected to oppose Brookline's departure because of significance of Brookline's contributions to financing of County government.

Other municipalities are expected to support the Norfolk County Revenue bill because it would relieve them of their responsibilities for paying for County services through property taxes. A Brookline petition to withdraw from County government is likely to be viewed doubly negatively by other municipalities in the County because it would detract attention from the Norfolk County Revenue bill.

Legislative approval for the Norfolk County Revenue bill will be difficult to achieve. Approval of Brookline's petition to withdraw from the County is likely to be even more difficult to accomplish.

What favorable action on the motion will accomplish is that it will signal Brookline's displeasure with its current financial obligations to Norfolk County. The vast majority of committee members believe that is valuable for Brookline to make this statement to the Legislature and the other municipalities in the County. A small minority in the committee believe that Brookline is better served now by concentrating on support for the Norfolk County Revenue bill.

RECOMMENDATION:
The Advisory Committee recommends FAVORABLE ACTION by a vote of 16- 4-0 on the following motion:

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 thirteen, 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.

***XXX***

## ARTICLE 25

### TWENTY-FIFTH ARTICLE

Submitted by: Frederick S. Lebow

To see if the Town will adopt the following Resolution:

### Resolution in Support of Abolishing Norfolk County Government

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 government 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 2013, the Norfolk County assessment for the Town of Brookline is nearly $715,000;

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, assessments 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, 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 requested to petition the Town's legislative delegation to file a petition with the General Court to abolish the Norfolk County Government.

or act on anything relative thereto

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PETITIONER'S ARTICLE DESCRIPTION

Petitioner is also contemporaneously filing a separate and companion warrant article requesting that the Selectmen file a home rule petition to remove Brookline as a member community in Norfolk County. Reference is made to the Explanation for that warrant article to supplement and explain further the basis for this warrant article.

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SELECTMEN'S RECOMMENDATION

Article 25 is a petitioned resolution calling for the Board of Selectman to petition the Town's legislative delegation to file a petition with the General Court to abolish the Norfolk County Government. Please see the Selectmen's Recommendation under Article 24, which also deals with the issue of Norfolk County government, for a detailed explanation as to why the Board supports that article. The Board does not, however, support Article 25 because the Norfolk County Commissioners have filed a bill (House docket No. 04304, filed on March 9, 2012) which would rectify the inequities of the current system by funding Norfolk County government functions and legacy costs through means other than municipal assessments. The solution proposed by the County Commissioners is the more likely to succeed since it will benefit all Norfolk County communities and will generate a broader base of support. The solution proposed by Article 25, conversely, would be unpopular with most other Norfolk County communities who perceive that they derive value from Norfolk County government. Advocating for the abolishment of Norfolk County will tend to alienate other Norfolk County communities and erode support for a cause which concerns Brookline more than others.

Therefore, the Board recommends NO ACTION, by a vote of 4-0 taken on April 17, 2012.

**ROLL CALL VOTE:**
No Action
DeWitt
Daly
Benka
Goldstein

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ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
See Article 24.

DISCUSSION:
The proposal is viewed favorably by committee members who believe that because Norfolk County government does not provide Brookline good value for its money, it should be abolished. They take note of the fact that core services previously provided by other counties whose government is now defunct have been assumed by state government. Other committee members understand that most municipalities in Norfolk County appreciate the services that the County provides. These municipalities want Norfolk County government to continue. Further, some committee members recognize that within Massachusetts there is increasing appreciation of the value of regional public services and believe that Norfolk County can be an effective means of providing regional services for some municipalities in the County. For these reasons, they do not support the resolution.

RECOMMENDATION:
The committee recommends NO ACTION by a vote of 12-8 with no abstentions.

***XXX***

ARTICLE 26

TWENTY-SIXTH ARTICLE
Submitted by: Stanley Spiegel, Town Meeting Member, Precinct 2

To see if the Town will enact a resolution as follows:

**RESOLUTION REGARDING THE RUNKLE SCHOOL AND PUBLIC CONSTRUCTION PROJECTS**

WHEREAS, construction projects in the Town, undertaken by either the public sector or by a private party, can have a negative impact on neighboring homes; and

WHEREAS, residents of the Town have the right to expect the Town not only to set high standards for private property owners and developers to minimize the adverse impact of new construction on neighboring homes but also to embrace those same high standards in public construction projects; and

WHEREAS, the Runkle School expansion project has been beset with a variety of controversies, including a disputed interpretation of the zoning by-law requirement that development requiring special permit modification of dimensional requirements be in general harmony with the nearby single-family neighborhood, which have resulted in a building whose overall effective height, scale and massing, particularly when including roof-top mechanical structures, is out of scale and not in keeping with the abutting single-family homes, and

WHEREAS, at present the construction differs in significant respects from the plans that were originally approved by the Planning Board and Zoning Board of Appeals and vetted through the public process,

NOW THEREFORE, Town Meeting, in expressing its regret with the unacceptable imposition on our impacted fellow Town residents as well as its intent to moderate the adverse impact of the roof-top mechanical structures on nearby homes, requests both that the various Town agencies involved in the Runkle School project devote the time and resources, including reallocated FY 12 funds and FY 13 and/or FY 14 appropriations, necessary to take appropriate remediation measures to alleviate the impact on affected abutting properties, and further, that the Town develop and institute effective policies and safeguards to ensure that the current unfortunate situation not be repeated in future public construction projects.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

At the present time, two broadly accepted and widely shared Town goals are in potential conflict: the commitment to protect the character of our neighborhoods, and the need to make investments for the Town's future, including the specific need to respond to a rapidly growing school population.

The premise of this warrant article is that the two goals need not be mutually exclusive. Rather, the Town and Schools can and should make necessary investments in infrastructure, but must do so with thoughtful respect for abutters and surrounding neighborhoods.

From the perspective of the Town, this is the right thing to do. Although educational and religious institutions receive certain protections under the Dover Amendment, and although certain public uses are treated more leniently than private uses under our Zoning By-Law, the Town should nonetheless lead by example with respect to the critical issue of minimizing neighborhood impacts. We should expect no less from the Town than we expect from private developers. Moreover, demonstrated indifference to neighborhood impacts can only result in increased resistance to future public projects.

While some have argued that purchasing a home next to public property has inherent risks that should be obvious to any potential buyer, validating that attitude does not serve the public good. Not only does it suggest that the Town will act insensitively towards abutters, but it encourages opposition to fund worthy public projects because of potentially uncontrolled outcomes.

The Runkle School project was, unfortunately, beset with controversies from the beginning. A mistaken interpretation of the Zoning By-Law, later acknowledged to be erroneous, initially led to the assumption that a building with a Floor Area Ratio approximately 70% larger than otherwise permissible could be built as of right, and to corresponding designs. When it was determined that a special permit was required and would be sought, the project was instead approved under the Dover Amendment without effort to apply the directive in Section 5.08(2) of the Zoning By-Law that modification of dimensional requirements be permitted to the extent necessary to allow reasonable development "in general harmony with other uses permitted and as regulated in the vicinity."

It should be noted that efforts were made to minimize the impact of the increased square footage through, among other measures, the placement of a landscaped buffer zone, traditional building materials, and softened colors in classroom interiors visible from the public way.

With regard to the mechanical units on top of the building, however, specific problems arose. Most of the mechanical units and screening now installed on the roofs of the building were not included in the plans or elevations presented by the architect to the Zoning Board of Appeals when the zoning exemption for the project was granted in 2010. To the contrary, perspectives of the building revealed only a limited number of small units on the roof. Indeed, certain units, including those closest to abutters, were not

included in the plans or elevations presented to the Building Commission or to the Runkle School Building Committee in June 2010 prior to the submission of plans to the Massachusetts School Building Authority, and even units that were shown on floor plans were not shown in the exterior elevations.

At no time were the mechanical units shown in documents presented to neighbors. To the contrary, documents provided to the neighbors in March 2010 actually showed the building from a perspective that hid almost the entire mass of certain rooftop units behind the cornice of the building. Moreover, despite the obvious concern of abutters for the mass and proximity of the building, and the obvious sensitivity of those issues, elevations showing the rooftop mechanical units and screens – which essentially add the height of another floor to much of the roof – were never shown to neighbors. Abutters assert that they first learned of the change in plans from those approved by the ZBA when the screening for the units was actually installed on the building.

Although the ZBA has ruled that the project should be allowed to go forward, litigation is always a possibility. Litigation or no litigation, trust in the Town's regard for abutting property owners has been undermined, and steps should be taken to restore the confidence of citizens in their Town.

There is no doubt that addressing the issue will be expensive, because the potential problems were not called to the attention of the relevant boards and neighbors in a timely fashion. Petitioners do not seek to assign blame for this situation or call for the costs to be borne by the Runkle School project, or cause a delay in the scheduled reopening of the school this Fall. Rather, they seek for the use of otherwise unexpended FY2012 funds and, if needed, the appropriation of FY2013 and/or FY2014 funds, in a good faith effort to address the problem. Such work could be performed during the summer of 2013, when school is not in session. Petitioners also urge the Town to implement policies and, if necessary, changes in the Zoning By-Law, to ensure that similar situations do not occur in other neighborhoods and to allow future School and other public projects to proceed with confidence. We should strive for an environment of trust in which we can make necessary investments in our Town and Schools while at the same time protecting abutters in our neighborhoods.

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## SELECTMEN'S RECOMMENDATION

Article 26 is a petitioned Resolution that would direct the Town to determine the costs and feasibility and then to allocate financial and other resources to remediate the impact of the rooftop mechanical (HVAC) units on the renovated Runkle School for the benefit of several of the Dean Road abutters. In October 2011, the Runkle School Building Committee was made aware of concerns from certain neighbors that the units, and the screens that are erected around them to muffle noise from their operation, create a negative impact in that they are almost the equivalent in height to an additional story. These neighbors were also upset that the specific location and design of the rooftop system was never fully disclosed to the public and to the Zoning Board of Appeals (ZBA) during the project's permitting (although typically HVAC plans are not presented to the

ZBA unless they would exceed the 10-foot allowance in our Zoning Bylaw). The latest version of the Resolution in the form presented to the Board would require the Town to reallocate FY 2012, 2013 or 2014 funding if necessary, and take appropriate good-faith remediation measures that would meaningfully alleviate the impact on abutting properties. The Resolution further requests the Town to improve its processes and practices in order to avoid such impacts on future public construction projects.

The Runkle School project is a $29 million renovation and expansion of the school that will create a 105,222 square foot building consisting of 34 classrooms in order to help alleviate serious overcrowding both at the Runkle school and system-wide. The project is receiving 41.58% reimbursement from the Commonwealth of Massachusetts. The Runkle School Building Committee was established pursuant to state guidelines to oversee the project. The Committee takes its responsibility to mitigate negative impacts to the neighborhood from this major project seriously. The overall scale and location of the project has been a source of concern from certain neighbors for some time. In response to this concern, a number of steps were taken to mitigate the impact on the Dean Road neighborhood.

Early in the process, the Committee voted to pull back the building an additional 17 feet from Dean Road abutters from the earlier design. That placed the new portions of the building about 60 feet from the property line. The Committee also voted to consolidate the new portions of the building so they did not go so far toward Clinton Road. The ZBA also placed a condition on the project that sought to "accommodate as much as possible changes to the exterior cladding and landscape changes that would help improve the exterior of the building, particularly on the Dean Road side". Ironically, on the Chesham Street side of the building the new addition now goes as close as about 30 feet to the lot line of the nearest abutter, but that household has received far fewer accommodations. Later the Committee voted not to make the wall facing toward the Dean Road abutters suitable as a "ball wall" which had been a very popular outdoor activity at Runkle, and the Committee agreed to leave the dumpster in the front of the building near Druce Street, rather than at the back where it would have been appropriately near the new cafeteria, since some of the Dean Road neighbors were concerned about noise from both the ball wall and emptying the dumpster. The Committee tried to minimize the impact of light pollution and glare on the neighbors by adjusting the fenestration and finishes on the building. The Committee also agreed to have a gym that was smaller than the minimum specified by the Massachusetts School Building Authority in order to reduce bulk on the Dean Road side of the building and to preserve a little more play area outside the building. Some of these changes to make the building more compact also changed the landscape of the roof and led to the HVAC units being sited in more visible locations.

For more than six months, the Committee has been investigating the issue and exploring possible alternatives for the HVAC units. The units are large to meet the current state building code for ventilation, etc. in school buildings; they are similar in size to those placed on top of the library during its renovation several years ago. Various ideas were discussed including, but not limited to, using lower profile HVAC units, moving the units to other locations on the roof, relocating to the ground level, and redesign of the screening panels to make them more aesthetically pleasing. The Committee voted against an option proposed by Dean Road neighbors to rip out a section of the roof over

the computer room area and sink the units into the building because that area has extensive new wiring and duct work that would all have to be relocated at great expense and detriment to the building. The Committee worked with the Building Commission and the project's architect to seek a formal change order from the contractor to relocate some HVAC units without delaying the completion date of the project (August, 2012).

Unfortunately the requirement to complete the project in August, combined with a lack of competition, allowed the contractor to make a very expensive proposal (over $800,000) and this proposal only took care of one set of the abutting neighbors. The abutters on the corner of Druce Street and Dean Road have come up with their own proposal to move additional units near them at a proposed cost of about $400,000. The Committee rejected the proposal and resigned themselves that any changes could only be made after the project was completed. These proposals to move units have the additional disadvantages, according to the Building Commission, of putting more holes into the new roof and requiring substantial duct-work that may actually be taller than the units that are currently there. However, the Committee, which includes the Town Administrator, a Selectman, a Building Commissioner, a School Committee member, and the School Superintendant among others, has committed to continue to see if some changes can be made to these units after the project is completed. Meanwhile, one neighbor has appealed the project to the ZBA. The ZBA rejected the appeal, but it is likely that the neighbor will appeal the ZBA's decision to the Superior Court and Town Meeting's discussion and vote potentially could be used as evidence in that process.

The Board of Selectmen voted NO ACTION, by a vote of 4-1 taken on April 24, 2012, on this resolution. The Board considers the Resolution to be premature since the Committee has already committed to continuing to see if it can find a fiscally responsible solution to this issue. Further, a warrant article designed to pressure the Town into spending possibly large sums of money to help a few specific people is very poor public policy, and it creates an unacceptable precedent for future public projects. In addition, given the likely litigation that will ensue over this project, several Board members felt that adoption of the Resolution in the form presented to the Board would be used against the Town in those proceedings. The Board feels that the School Building Committee's commitment to evaluate the rooftop HVAC system once the building is completed is sincere and looks forward to considering alternatives.

**ROLL CALL VOTE:**

| No Action | Favorable Action |
|---|---|
| DeWitt | Benka |
| Daly | |
| Mermell | |
| Goldstein | |

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Warrant Article 26 is a resolution asking: that Town Meeting, in expressing its desire to moderate the adverse impact of the roof-top mechanical structures on nearby homes, requests that the various Town agencies involved in the Runkle School project undertake a good-faith effort to determine the costs and feasibilities and, if appropriate, request that Town Meeting allocate reasonable resources (including reallocated FY12 funds, and FY13 and/or FY14 appropriations, if necessary) to take reasonable measures that would, without delaying the reopening of the school or interfering with the functioning of the school during the academic year, meaningfully alleviate the impact on affected abutting properties and further requests that the Town improve its processes and practices regarding mitigation, to minimize to the extent reasonably possible, the impact of future public construction projects on neighbors and neighborhoods.

Introduction:
Nearly every large project (public and private) comes with controversy—the Courtyard Marriott Hotel, the Town Garage, the B2 Parcel, Red Cab site, the Lawrence School. This project is no different. No one disagrees with the need to renovate Runkle—children were sitting in the hallways. In addition, everyone understands that school building design is driven by program needs and that meeting school program needs results in large, institutional buildings.

For most Brookline schools, the impact of their size and issues accompanying rooftop mechanical units are mitigated by the land surrounding them. The Lawrence School, for example, although its renovation resulted in its occupying even more of its land parcel than Runkle, is surrounded by tennis courts, playgrounds, ball fields and park. Runkle has no such buffer between the school and its abutters.

The Runkle School renovation is a project that needed to happen, the three-year renovation is drawing to a close, and Runkle children will be returning to class this fall on schedule. Nothing in this warrant article will change any of that.

There are those who feel it was an enormous struggle to bring this renovation to fruition, that there was neighborhood participation in the process, and that concessions in design were made by the school community.

Others feel the overly large structure produced by the renovation is the result of Dover Amendment exemptions and that the outcome would have been different had our Town zoning requirements been properly interpreted. Moreover, as the last stage was implemented—the installation of HVAC equipment on the roof—some abutters assert that the height of the equipment, its proximity to abutters, and noise of its operation differ significantly from what had been presented to them at public meetings at various stages of the planning and building process. For them, the effect of those changes has been to reduce both the enjoyment and the value of their property, as well as to erode their confidence in the public process intended to provide meaningful inclusion of neighbors and abutters in the planning process.

The question addressed by this warrant article is whether there are any options or opportunities regarding the HVAC units that are feasible, reasonable, effective or even necessary or possible. Once again, children are scheduled to return to Runkle in the fall, and it is important that no measures be taken that would interfere with the school's readiness for their return.

DISCUSSION:

**Those who support Warrant Article 26 offer the following reasons:**

The article is not about assigning blame or about funding or appropriations. Rather, it is about trying, if possible, to alleviate the negative impacts that public projects may have on abutters. The number of meetings that occurred in the planning process is not the issue. The issue is remediation for those who can be helped. We would expect this of private developers; why not of the Town?

The article does not recommend a particular solution: it recommends that an appropriate solution be found. It is important that we not find ourselves in a similar position in the future. We want to be proud of the way the Town treats its residents when it does its public projects.

Initially, the HVAC units and mechanicals were to be located so that, for the most part they were not visible above the roofline of the building. When it was decided to locate the music space in the area originally intended for the mechanicals, the mechanicals were moved by necessity. The architectural drawings presented at the early open meetings showed a perspective of the school from Dean Road with a small HVAC unit over the gym (Building B). (Attached.) This is the design initially presented to and approved by the Building Committee and the ZBA.

At some point, that plan was changed and mechanicals on the roofs of the buildings were moved, essentially adding an additional storey on the Dean Rd. side. By what process did we arrive at the current design? A power point presentation indicated the following:

> On the application Jan/Feb, 2010, the HVAC equipment was tucked into a building recess and shown as a single small unit on Roof B.
>
> In March, 2010, after ZBA oral approval and before the written decision: the proposed roof design shows a single small unit on Roof B, over the gym.
>
> March 9, 2010 – A new version of the drawings was produced, reflecting more nearly in scale the roof top HVAC units, but the committee minutes do not indicate that it was shown to the Runkle School Building Committee, the ZBA, or the neighbors.
>
> On June 28, 2010, in a submission to the Massachusetts School Building Authority (MSBA), the HVAC units are pictured on the library (Building A), showing the whole Dean Road side has an added elevation of 10 feet to accommodate the mechanicals**.** <u>But this drawing was apparently not shown to the ZBA or to the neighbors at a public meeting</u>.

August 23, 2010 – two days before the plans were put out to bid, plans showing the HVAC units and the elevator penthouse were shown to scale on the renderings and delivered to the Building Department.

August 25, 2010 – the plans were put out to bid. It is not clear who saw them in that brief interval, but they were not shown to the Runkle School Building Committee.

Current views from a 36 Druce Street bedroom, showing framing of HVAC, and from 96 Dean Road show at least 10 feet added to building height. (Attached.) This picture does not show how screens will alter how the units look once installed. Because of the change of location and the size of the units, there is also concern about air-conditioning noise.

Minutes of two of the Runkle School Building Committee meetings provide additional information that may be useful in addressing this warrant article:

10/24/11 – "abutters and neighborhood residents expressed their concern and dismay at the rooftop equipment and associated acoustic treatment…that these were not part of the ZBA approval; that they amount to a 'fourth floor' on the building, and that they will block views and sunlight… They…expressed concern as to the process and …that the installation of the units came as a surprise."

"In response, the design team explained…how the units were located and that the plans presented to the ZBA …were schematic only…. In pulling the building back to create a smaller footprint, one result is higher mechanical equipment and related appurtenances."

11/9/11 - Under the heading "Rooftop equipment" the minutes read as follows: Two members opened the meeting "… by stating that while they had seen the drawings that showed some roof top equipment as the design progressed, they did not fully comprehend what they would look like from abutters' homes when actually installed. Nor did the architect point out the impact to the rooftop and Dean Road abutters of moving the building back 18 feet. They noted some of this may be due to the fact that with respect to architectural engineering design, they are lay people. In addition, some of the drawings do not appear to accurately represent what the roofs look like from upper stories of neighbors' homes nor do they accurately reflect what the actual construction documents show."

Supporters of the article also offer the following as reasons for their support of the warrant article:

While it is true that the ZBA is not charged with approving rooftop mechanical units, the units are scrutinized by DATs and neighborhood groups in private development (e.g., the Red Cab site and Brookline place). Why don't we pay the same degree of attention to rooftop units on publicly funded projects and hold

ourselves to the same standards to which we hold developers? The Building Commissioner confirmed that the ZBA's approval would not have been withheld if the schematic showing the HVAC roof placements presented to the MSBA had been shown to the Board, because **the ZBA considers parking and FAR (Floor Area Ratios) but does not regulate rooftop mechanical units, which are not included in consideration of height requirements.**

The Town is starting to confront the negative impact of rooftop units (which was raised as an important concern at the Red Cab site and at 168 Harvard). This warrant article attempts not only to address a question of fairness in this instance but to prevent resistance from neighbors to future projects by identifying and addressing such potential problems early in the design phase…and, by learning from our mistakes.

**Those opposed to the warrant article do so for the following reasons:**
The issue before us is whether the HVAC units are larger than those portrayed in earlier schematics and how much it would cost to move them. An attitude that says "do it regardless of the cost to the Town" is unacceptable. Any changes that require making more cuts in the roof will degrade the roof. Estimates for proposed changes range from $280,000 to $800,000 (though no one would put stock in that higher number). Even if a change was feasible and funds were available, it does not mean that a change is appropriate.

Article 26 is wasteful, limiting remediation to a single solution—one that is costly and may result in only limited improvement of the view or reduction of noise for adjacent abutters. Nor does the suggested remedy address the impact of the building design on other abutters.

The project was approved by ZBA, who said it did not violate FAR or height regulations that it is charged to regulate. Moreover, invoking the Dover Amendment was justified in planning the project, since the Amendment exempts educational corporations from certain zoning restrictions, either because a structure is larger than zoning laws would allow or would be considered inappropriate by some for the neighborhood.

The schedule of the planning process was due to the requirements set by the Massachusetts School Building Authority (MSBA). Had Brookline failed to file its application, including the required 65% completed design plan, the State would not have agreed to fund a major share of the cost of the renovation.

Still, the Runkle School Building Committee has bent over backwards to be fair and considerate. Over the several years there have been countless meetings devoted to issues related to the renovation of Runkle School. There were a number of significant design changes and concessions made to abutters, some of which led directly to the need to relocate the HVAC units on the roof.

Will passage of the warrant encourage citizens of Brookline to resist public projects, using threats of legal action in hopes that even if unsuccessful, the Town will offer special remediation? And, will the article open the possibility of spending an unknown amount of scarce capital funds?

Are there other, cheaper and more effective, options than the relocation of the HVAC equipment that should be considered? One abutter, who opposes the article, asked whether there are other remedies—arts, plants, or something else—to minimize or improve the look of the roof units or the expanse of the building. He also wondered whether there are risks to the solution proposed by the warrant article: Will it encourage residents close to future projects to seek money as compensation, to be "squeaky wheels" in order to influence needed public projects? Despite feeling that his property value has been reduced by the project, this abutter feels that this was a risk he accepted when he moved next to a school.

Opponents fear this will "open the floodgates", encouraging others to complain; and that it sets a bad precedent.

Conclusion:

The Runkle School renovation went through a long process, with many design changes in response to the concerns of neighbors, the neighborhood, and the school-community. Unfortunately, the HVAC units were not well prioritized during this process. That is not uncommon in many large projects, whether in Brookline or elsewhere. However, the configuration that was apparently presented to the abutters and the placement of the units now are in stark contrast. What appeared as a minor protuberance on the roofline, now appears as essentially another floor. The Committee did not hear that this was the best configuration, or even a good configuration. In fact, the Committee heard from two Selectmen, each with a different opinion on this article. But, both acknowledge great surprise at the current configuration of HVAC units, indicating further that this was, to a degree, lost in the shuffle. The question is whether it can be reasonably improved.

A contributing factor appears to be the new Massachusetts School Building Authority guidelines. Time lines are significantly shortened and towns are asked to approve projects at just the 65% design phase. The Runkle School is the first project that we have undertaken with these new guidelines. What most impressed the Committee was that final drawing (with the HVAC units) were sent to the Town on 8/23/10 and the bid documents had to go out only two days later on 8/25/19. There was no time for the placement of these units to be appreciated and no red flag went up.

There is an economic impact on the value of abutter' homes. Enjoyment of the home is diminished as the result of the blocking of the view, decreased light and the potential for increased noise. Abutters will have to live with this 365 days a year in perpetuity. These represent real costs to individual abutters and should be addressed, not merely by taking this as an opportunity to learn from experience. What is needed is to take appropriate good faith remediation measures to alleviate the effects suffered by the homeowners and to encourage the Town to improve its processes and practices.

There is a significant amount of unspent funds from this year (because of the lack of snow removal costs) that are available to use for capital projects in future years and some of that might be available for remediation. Future large-scale renovations will require

bonding, so use of the funds for this purpose will not affect budgeting for upcoming capital projects for schools.

This article has been described by some as designed to benefit the few. However, it will actually benefit the many--the entire Brookline community. Rather than "opening the floodgates", it will help to close them by focusing on these potential problems early in the process instead as an after-thought. It allows Town Meeting to make a statement on how we treat each other and on our values as a community.

While potential cost consequences were an issue for the Committee, larger civic concerns weighed more heavily. How we vote on this article will send a message to neighborhoods and abutters of future school or other municipal projects, and that message can put them on notice in a positive or in a negative way. That message can be "Too bad about the negative impact, but it's about the greatest good for the greatest number" or it can be "we will take the time to listen and respond to your concerns and your issues."

RECOMMENDATION:
The Advisory Committee recommends FAVORABLE ACTION on the following motion by a vote of 14 in favor, 5 opposed, 0 abstentions.

VOTED: That the Town adopt the following resolution:

WHEREAS, the Runkle School has long been in need of renovation and expansion to meet the needs of the growing population of school children in Brookline; and

WHEREAS, the Runkle School is uniquely situated within the surrounding historic residential neighborhood, presenting certain architectural challenges; and

WHEREAS, construction projects in the Town, undertaken by either the public sector or by private party, can have a negative impact on neighboring homes; and

WHEREAS, residents of the Town have the right to expect the Town not only to set high standards for private property owners and developers to minimize the adverse impacts of new construction on neighboring homes, but also to embrace those same high standards in public construction projects; and

WHEREAS, some have expressed the view that the Runkle School expansion has resulted in a building whose overall effective height, scale and massing, especially when including the additional roof-top mechanical structures, is out of scale and particularly and significantly imposing on the adjoining single family homes; and

WHEREAS, the impact of the roof-top structures may be eased to some extent by repositioning the roof-top mechanical structures during the Summer of 2013 which will not delay the planned reopening of the Runkle School this coming Fall nor interfere with the educational functioning of the school during the 2012-2013 academic year,

NOW THEREFORE, Town Meeting, in expressing its desire to moderate the adverse impact of the roof-top mechanical structures on nearby homes, requests that the various Town agencies involved in the Runkle School project undertake a good-faith effort to determine the costs and feasibilities and, if appropriate, request that Town Meeting allocate reasonable resources, including reallocated FY 12 funds and FY 13 and/or FY 14 appropriations if necessary, to take reasonable measures that would, without delaying the reopening of the school or interfering with the functioning of the school during the academic year, meaningfully alleviate the impact on affected abutting properties, and further requests that the Town improve its processes and practices regarding mitigation, to the extent reasonably possible, that minimize the impact on neighbors and neighborhoods of future
public construction projects.

***XXX***

ARTICLE 27

TWENTY-SEVENTH ARTICLE
Submitted by: Human Resources/Youth Resources Commission & Hidden Brookline Committee

To see if the Town will adopt the following Resolution:

**A Resolution Regarding Slavery in Brookline**

WHEREAS, slavery was officially legalized in the Massachusetts Colony in 1641, three years after the settling of Brookline; according to Town Meeting records, slavery existed in Brookline by1675, if not before, and continued until roughly 1800.

WHEREAS, over 70 children, women and men in total (primarily African-Americans, but also Native-Americans) were enslaved here – bought, sold and inherited; dehumanized and stripped of their names and heritage.

WHEREAS, in 1717 the Town Meeting selected a slave owner as its first minister and paid his salary out of Town funds.

WHEREAS, in 1744 the Town received a substantial bequest for the building of a new school from Edward Devotion, a slave owner and citizen.

WHEREAS, in 1746, Town Meeting agreed to have Henry Sewall's enslaved man Felix clean Town Hall.

WHEREAS, in that same year over one-quarter of Brookline households owned people.

WHEREAS, the ownership and trade in enslaved persons and the exploitation of their labor increased the prosperity of many Brookline families, thus increasing the collective wealth of the Town.

WHEREAS, as noted in the large plaque at the entrance to Town Hall, on April 19, 1775, three enslaved Brookline men marched as Minutemen to the Battle of Lexington for freedom from foreign rule.

WHEREAS, we recognize that even the most abject apology for past wrongs cannot right them; yet we believe that acknowledgement of past wrongs can promote reconciliation and can prevent the repetition of these wrongs and their related injustices.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Meeting of Brookline hereby acknowledges with profound regret the enslavement of Native-Americans and African-Americans and the exploitation of slave labor by this Town, within this Town, and amongst the citizens of this Town.

RESOLVED, that the Town Meeting call upon the people of Brookline to acknowledge and recognize contributions of Native-Americans and African-Americans to the Town and the achievement of equality, liberty, justice and democracy.

RESOLVED, that we pledge continued vigilance against all practices and institutions that dehumanize and discriminate against people.

RESOLVED, that the School Committee consider including this history of Brookline slavery in appropriate places in its curriculum.

RESOLVED, that the Town Clerk shall distribute copies of this resolution to the public libraries and schools of this Town and shall post this resolution on the Town's website.

Or act anything relative thereto.

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PETITIONER'S ARTICLE DESCRIPTION

At the time the United States declared its independence in 1776, every state was a slave-owning state, including Massachusetts. In Brookline, slavery had already existed for over 100 years and would continue for another 25 years. The first mention of slavery comes in Town Meeting records of 1675, when a business consortium of Brookline men informed the Town that they would be holding six Native-Americans in Town until they could arrange their sale to the Caribbean. Hidden Brookline, a committee of the Human Relations-Youth Resources Commission, brings this warrant article now before Town Meeting so that we can publicly acknowledge this painful past and resolve to be vigilant against any and all recurrence of such prejudice.

In a unique and moving ceremony, on September 12, 2009, with the cooperation of the Cemetery Trustees and recorded by Brookline Access Television, we unveiled an engraved stone in the wall of the Old Burying Ground to honor and celebrate the African-American enslaved men, women and child buried there. Almost 300 members of the public joined in this special occasion. On June 8, 2011, the Hidden Brookline Committee received an award from the Brookline Preservation Commission in recognition for this event.

In the years since the Committee's founding in 2006, we have carried out research at the Massachusetts State Archives, the Massachusetts Historical Society, the New England Historic Genealogical Society, and the Brookline Public Library. We have shared this work with various audiences: leading walking tours for students and teachers, mounting exhibits at our libraries, giving talks to civic organizations, and speaking at Town celebrations of national holidays.

The Hidden Brookline Committee is recognized as a leader in Massachusetts for our research and public education on slavery. Our research has been noted by the Brookline TAB, the Boston Globe, WBZ-TV, and NECN.

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## SELECTMEN'S RECOMMENDATION

Article 27 is a proposed resolution jointly submitted by the Human Resources/Youth Resources Commission and the Hidden Brookline Committee. It asks the Town to publicly acknowledge with profound regret the history of slavery in Brookline. According to Town records, slavery existed in Brookline by 1675, if not before, and continued until roughly 1800. This resolution is an expression of sorrow about this painful past. It also asks that we recognize the contributions of Native-Americans and African-Americans to the Town and asks the School Committee to consider including this history in its curriculum.

The Board agrees that acknowledgment of past wrongs is an important part of the healing process, and public education will help the Town remain vigilant against similar injustices and indignities. We feel a future resolution should recognize those who aspired to acts of decency and courage during this time, and a principal author of Article 27 has agreed to the appropriateness of such a resolution recognizing the involvement of Brookline residents in the abolitionist movement and in opposition to the Fugitive Slave Law. This Board feels that it is important to show both the painful and inspiring parts of our history. Understanding our full history allows us to gain a better perspective when dealing with current events. The Board is appreciative of the work of the Hidden Brookline Committee and looks forward to their continued efforts to educate the public on slavery.

Therefore, the Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 24, 2012, on the following motion:

VOTED: That the Town adopt the following Resolution:

**A Resolution Regarding Slavery in Brookline**

WHEREAS, slavery was officially legalized in the Massachusetts Colony in 1641, three years after the settling of Brookline; according to Town Meeting records, slavery existed in Brookline by1675, if not before, and continued until roughly 1800.

WHEREAS, over 70 children, women and men in total (primarily African-Americans, but also Native-Americans) were enslaved here – bought, sold and inherited; dehumanized and stripped of their names and heritage.

WHEREAS, in 1717 the Town Meeting selected a slave owner as its first minister and paid his salary out of Town funds.

WHEREAS, in 1744 the Town received a substantial bequest for the building of a new school from Edward Devotion, a slave owner and citizen.

WHEREAS, in 1746, Town Meeting agreed to have Henry Sewall's enslaved man Felix clean Town Hall.

WHEREAS, in that same year over one-quarter of Brookline households owned people.

WHEREAS, the ownership and trade in enslaved persons and the exploitation of their labor increased the prosperity of many Brookline families, thus increasing the collective wealth of the Town.

WHEREAS, as noted in the large plaque at the entrance to Town Hall, on April 19, 1775, three enslaved Brookline men marched as Minutemen to the Battle of Lexington for freedom from foreign rule.

WHEREAS, we recognize that even the most abject apology for past wrongs cannot right them; yet we believe that acknowledgement of past wrongs can promote reconciliation and can prevent the repetition of these wrongs and their related injustices.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Meeting of Brookline hereby acknowledges with profound regret the enslavement of Native-Americans and African-Americans and the exploitation of slave labor by this Town, within this Town, and amongst the citizens of this Town.

RESOLVED, that the Town Meeting call upon the people of Brookline to acknowledge and recognize contributions of Native-Americans and African-Americans to the Town and the achievement of equality, liberty, justice and democracy.

RESOLVED, that we pledge continued vigilance against all practices and institutions that dehumanize and discriminate against people.

RESOLVED, that the School Committee consider including this history of Brookline slavery in appropriate places in its curriculum.

RESOLVED, that the Town Clerk shall distribute copies of this resolution to the public libraries and schools of this Town and shall post this resolution on the Town's website.

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## ADVISORY COMMITTEE'S RECOMMENDATION

The Advisory Committee's recommendation will be included in a Supplemental Report to be mailed prior to the commencement of Town Meeting.

***XXX***

# ARTICLE 27

## BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

On May 15, 2012, the Selectmen voted to recommend FAVORABLE ACTION, by a vote of 5-0, on the motion offered by the Advisory Committee below. That vote contains two changes from what the Selectmen originally voted under Article 27 on April 24th.

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## ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
Article 27 is a resolution recognizing a history of slavery in Brookline.

This article originated with the Hidden Brookline sub-committee of the Human Relations and Youth Resources Commission. The resolution had been carefully crafted over more than a year of work by the Commission.

Six years ago the Hidden Brookline Committee was founded as part of the Human Relations and Youth Resources Commission—with a mission of bringing to light the history of slavery and freedom in Brookline by enhancing public education. Brookline is not free of the national shame of slavery in our history. Slavery was officially legalized in the Commonwealth of Massachusetts in 1641. At least ten slaves are buried in Brookline, and historical records reveal that three Brookline slaves fought at battle of Lexington. In the late 18th century one out of four Brookline families owned slaves. Dr. Brown provided a map (see exhibit) showing the town map of 1746 with land areas of slave owners colored in.

DISCUSSION:
An ad hoc subcommittee of the Advisory Committee held two public hearings on this article. Attendees at the hearings overwhelmingly supported the article, although some expressed concern that the resolution as originally submitted might have a polarizing effect by seeming to apologize for the acts of others centuries ago. Others present at the hearing expressed the belief that the resolution represented a statement of collective grief and acknowledgement of the national shame associated with slavery in American history, not an apology.

A number of Advisory Committee members also had concerns around this resolution being an "apology". They noted a lack of direct ties between the current residents of Brookline and those living here in the 1700's. The view was that this may be seen as having the people of Brookline atone for the sins of their fathers, as it were, without

actually having any ancestral involvement in slavery in Brookline. Some also questioned where one draws the line, and noted that Brookline has a rather progressive history in terms of slavery as well, including the work abolitionist Amos Lawrence.

Most expressed the view, as did the petitioner, that this was not meant to be an apology, but rather an acknowledgement of a regrettable period in Brookline's history. While slave owning may have been common place at one time, we can now put it in better perspective. Brookline's progressive history with regard to slavery has been well documented and publicized over the years. Brookline's history of slave ownership, however, has not received quite that same degree of attention. This resolution recognizes that slavery existed in Brookline, and regrets that it did. This is not meant as an apology or an admonition, but recognition. It was also pointed out that the perceptions of those who come from a heritage of slavery can differ greatly from those who do not. For many, there is great comfort in having others simply acknowledge that there was an unfortunate period in our history and use that acknowledgement as a reminder of the need to be ever vigilant as community and a society.

The Advisor Committee feels this resolution is a fitting recognition of part of our town's past. Though, the Advisory Committee motion includes two alterations to the language of the resolution.

Given to concerns that Town Meeting not directly address the specifics of public school curriculum, the Advisory Committee's motion, instead, encourages the promotion and inclusion of this history in appropriate places within the school curriculum. The Advisory Committee motion also strikes reference to an apology in the final WHEREAS clause, choosing instead to have that clause focus on acknowledgment.

Note that the text of the Advisory Committee recommended substitute motion (below) shows the resolution as submitted with eliminated text ~~struck out~~ and inserted text **<u>in bold underlined font</u>.**

<u>RECOMMENDATION:</u>
Following substantial discussion and amendments, the Advisory Committee, voting 16-3-1, recommends FAVORABLE ACTION on the following resolution:

VOTED: That the Town adopt the following Resolution:

**A Resolution Regarding Slavery in Brookline**

WHEREAS, slavery was officially legalized in the Massachusetts Colony in 1641, three years after the settling of Brookline; according to Town Meeting records, slavery existed in Brookline by1675, if not before, and continued until roughly 1800.

WHEREAS, over 70 children, women and men in total (primarily African-Americans, but also Native-Americans) were enslaved here – bought, sold and inherited; dehumanized and stripped of their names and heritage.

WHEREAS, in 1717 the Town Meeting selected a slave owner as its first minister and paid his salary out of Town funds.

WHEREAS, in 1744 the Town received a substantial bequest for the building of a new school from Edward Devotion, a slave owner and citizen.

WHEREAS, in 1746, Town Meeting agreed to have Henry Sewall's enslaved man Felix clean Town Hall.

WHEREAS, in that same year over one-quarter of Brookline households owned people.

WHEREAS, the ownership and trade in enslaved persons and the exploitation of their labor increased the prosperity of many Brookline families, thus increasing the collective wealth of the Town.

WHEREAS, as noted in the large plaque at the entrance to Town Hall, on April 19, 1775, three enslaved Brookline men marched as Minutemen to the Battle of Lexington for freedom from foreign rule.

WHEREAS, ~~we recognize that even the most abject apology for past wrongs cannot right them; yet~~ we believe that acknowledgement of past wrongs can promote reconciliation and can prevent the repetition of these wrongs and their related injustices.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Meeting of Brookline hereby acknowledges with profound regret the enslavement of Native-Americans and African-Americans and the exploitation of slave labor by this Town, within this Town, and amongst the citizens of this Town.

RESOLVED, that the Town Meeting call upon the people of Brookline to acknowledge and recognize contributions of Native-Americans and African-Americans to the Town and the achievement of equality, liberty, justice and democracy.

RESOLVED, that we pledge continued vigilance against all practices and institutions that dehumanize and discriminate against people.

RESOLVED, that the School Committee ~~consider including~~ **is encouraged to promote inclusion of** this history of Brookline slavery in appropriate places in its curriculum.

RESOLVED, that the Town Clerk shall distribute copies of this resolution to the public libraries and schools of this Town and shall post this resolution on the Town's website.

ARTICLE 28

TWENTY-EIGHTH ARTICLE
Submitted by: Catherine Marris, Jake Wolf-Sorokin, and Pema Doma

To see if the Town will adopt the following resolution:

**Resolution**
**Supporting Clean Construction Standards to Protect**
**Public Health and Climate Stability**

**WHEREAS,** the Town of Brookline is committed to ensuring the health, safety and well-being of its residents; and,

**WHEREAS,** in order to protect the air quality throughout the community, the Town must control the emission of air pollutants; and,

**WHEREAS,** air pollution has deleterious effects on climate stability, human health, animal life, urban agriculture, personal property and limits the activities of citizens out in the community; and,

**WHEREAS,** according to the United States Environmental Protection Agency, diesel exhaust contains significant levels of small particles, known as particulate matter (PM), which contribute to 21,000 premature deaths each year across the nation[1]; and,

**WHEREAS,** black carbon is one of the largest contributing pollutants to global warming, about 2000 times more potent than the equivalent amount of CO2 over a 20-year period[2,3]; and

**WHEREAS,** the United States has the highest per-capita black carbon emissions in the world, and 57% of U.S. black carbon emissions comes from diesel engines: 41% from on-road diesels and another 16% from non-road diesels[4]; and

**WHEREAS,** specifically, construction and development projects pose a clear and present health risk to residents of the Town of Brookline, as 28 percent of all particulate matter emissions in Massachusetts comes from construction and mining engines[5]; and,

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[1] Clean Air Task Force, *"Diesel and Health in America: The Lingering Threat,"* February 2005.
[2] Bond, T.C., and Sun, H. (2005). *Can reducing black carbon emissions counteract global warming?* Environmental Science and Technology, v.39, p.5921 – 5926.
[3] Ramanathan, V. and Feng, Y. (2008). *On avoiding dangerous interference with the climate system: formidable challenges ahead.* PNAS, v. 105, no.38, p.14245 – 14250
[4] Bond T., Streets, D., Yarber, K., Nelson, S., Woo, J., and Klimont, Z. (2004). *A Technology-based Global inventory of black and organic carbon emissions from combustion.* Jour. Geophys. Res., v. 109, p. D14203
[5] *The Massachusetts 2002 Diesel Particulate Matter Inventory*, Massachusetts Department of Environmental Protection, September 2007.

**WHEREAS,** our most vulnerable citizens – the elderly and children – are those most sensitive to the health effects of diesel emissions, including those with existing heart or lung disease; and,

**WHEREAS,** pediatric asthma rates in Brookline schools are at 10.4% of enrolled students, which has been identified by the Health Department as a priority health issue to address[6]; and

**WHEREAS,** climate change strategies that provide near-term mitigation are needed to complement long-term efforts to reduce CO2 emissions; and

**WHEREAS,** upgrading older diesel engines with retrofit and other technology options are one of the few actions that will have immediate climate benefits while reducing a known contributor to asthma, stroke, diabetes, cancer and other cardiovascular and respiratory illness; and

**WHEREAS,** health insurance costs to the Town of Brookline are estimated to increase by $2.5 million in FY13 and projected to continue straining the budget through FY17[7]; and

**WHEREAS, t**he Town of Brookline is projected to spend $153.8 million on local Capital Improvement Projects during the FY13 – FY18 period, an average of $25.6 million per year[8]; and

**WHEREAS,** Keybridge Research, an international economics and public policy consulting firm, shows that investing in diesel pollution clean-up yields jobs and health outcomes, estimated at 19,000 jobs for every $1 billion of investment and $12 avoided in health damages for every $1 spend on reducing PM diesel pollution from engines[9]; and

**WHEREAS**, municipalities, cities and states across the U.S. have implemented policies to incent or require diesel engine upgrades for use on local construction and development project sites and limit the idling of heavy-duty diesel vehicles in order to reduce diesel pollution to better protect public health and the climate;

**NOW, BE IT RESOLVED,** that the Board of Selectmen of the Town of Brookline is encouraged to evaluate requirements in public project bid specifications or other incentives to facilitate the use of cleaner, either new and/or retrofitted, diesel vehicles and equipment on local construction and development project sites in an effort to substantially reduce pollution exposure for Brookline residents and visitors; and

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[6] *Pediatric Asthma in Massachusetts 2007-2008.* Massachusetts Department of Public Health, Bureau of Environmental Health, July 2010.
[7] December 6, 2011 PowerPoint Presentation, *Town of Brookline FY2012-FY2017 Long Range Financial Plan*
[8] February 14, 2012 PowerPoint Presentation, *Town of Brookline FY2013 Financial Plan Section VII (CIP)*
[9] KebBridge Research (2008).

**BE IT FURTHER RESOLVED,** that the Board of Selectmen is encouraged to support enforcement of the no-idling by-law, Article 7.5.8 of the General By-Laws, with respect to on-road and non-road diesel engines in use on construction project sites; and

**BE IT FURTHER RESOLVED**, that the Board of Selectmen is encouraged to work with community stakeholders to develop a Clean Construction By-Law to achieve the health and climate protections described above and for review at the November 2012 town meeting or to appoint a Selectmen's Committee to develop such a by-law for consideration by Town Meeting.

Or act on anything relative thereto.

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## PETITIONER'S ARTICLE DESCRIPTION

While much time and energy has been spent making 'green' and sustainable improvements to various aspects of new building and infrastructure design as well as renovation of existing structures, the effects of toxic diesel pollution *during* construction projects are often overlooked. Highly problematic but easily prevented exposure to particulate matter soot in diesel exhaust has been linked to asthma, diabetes, stroke, heart attack, cancer and over 21,000 premature deaths annually in the U.S. Soot (black carbon) is a warming pollutant 2,000 times more potent than CO2. Its significance is increasingly being highlighted in national news sources. Updating Brookline's contract specifications to require the use of cleaner heavy-duty vehicles and equipment/or filters on aging equipment can practically eliminate emissions of particulate matter and black carbon soot. This is a relevant action to consider taking given the high rates of pediatric asthma in Brookline, the high cost of health insurance to the town, and significant investment in construction projects planned over the next 6 years.

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## SELECTMEN'S CLIMATE ACTION COMMITTEE RECOMMENDATION

This article is being submitted by Catherine Marris, Jake Wolf-Sorokin, and Pema Doma. The purpose of this amendment is to see if the Town will adopt a resolution supporting the establishment of clean diesel requirements in public building projects and the enforcement of the town's no-idling by-law.

The Selectmen's Climate Action Committee supports this warrant article. Limiting the particulate matter emissions from diesel vehicles during the construction of public projects, as well as enforcing the town's no-idling by-law, is in line with the Committee's efforts to reduce the town's overall greenhouse gas emissions and mitigate climate change. Construction vehicles have an extended life span compared to passenger vehicles, and the technology currently exists to effectively retrofit existing vehicles and reduce diesel pollution. Doing so not only moves the town's climate action goals forward, but also furthers the town's work to improve public health. Adopting this resolution ensures the town takes a leading position on this issue and provides support for future town action.

Therefore, the Selectmen's Climate Action Committee unanimously recommends FAVORABLE ACTION on Article 28 as submitted.

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ADVISORY COUNCIL OF PUBLIC HEALTH RECOMMENDATION

On Tuesday, March 14, 2012, the Advisory Council on Public Health unanimously voted to endorse a Resolution Supporting Construction Standards to Protect Public Health and Climate Stability. The Council took note of the asthma rate in Brookline of 10.4% among school aged children and the effect of particulate matter from diesel exhaust on asthma and other acute and chronic health conditions. They also noted the effect of "black carbon" from diesel emissions on our carbon footprint, which Brookline is diligently working to reduce.

As a resolution, this article requires no formal action by the town. We expect, however, that passage of this resolution will initiate a community conversation regarding a possible future warrant article to restrict or limit emissions from diesel motors at Brookline construction sites. This conversation would include defining precisely what kinds of mitigation would be required and the cost and benefits of this for the Town.
The Council commends the work of the young people at Brookline High School who have advanced this resolution and we look forward to working with them to reduce diesel emissions in order to protect public health and to reduce effects of climate change.

Bruce Cohen, Ph.D. Chair
Roberta Gianfortoni, MA
Anthony Schlaff, MD, MPH
Milly Krakow, Ph.D.
Cheryl Lefman, MA
Pat Maher, RN/NP MA/MS

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SELECTMEN'S RECOMMENDATION

Article 28 is a petitioned Resolution that, as originally filed, encourages this Board and the Town to explore requirements in public bid documents that may facilitate the use of cleaner, either new and/or retrofitted, diesel vehicles and equipment on local construction and development project sites. It encourages the Board to enforce the Anti-Idling By-Law (Article 7.5.8 of the General By-Laws) for on-road and non-road diesel engines in use on construction project sites. It also asks the Board to appoint a committee to draft a warrant article for the November, 2012 Special Town Meeting that would create a Clean Construction By-Law.

As a "Green Community", a designation granted the Town by the State, we understand the impacts pollution and black carbon, in particular, have on the health and well-being of our community. We understand from the petitioners that older diesel vehicles have a longer life span, meaning that many of these vehicles were produced before many omissions standards were put in place. Now that there are technologies available to mitigate the impact these vehicles have on the environment, more study is needed on what enactment of a clean Construction By-Law would mean for our construction projects in Town.

While the Board is in agreement with the intent of this article, we feel that the Advisory Committee's version allows us to study the issue a bit further so that we know the cost-benefit of enacting a Clean Construction By-Law, and if enactment should be at the state or local level. We feel that the Town Administrator's Task force, as described by the Advisory Committee, provides the right mix of individuals that can provide us with the information needed to determine the next steps for the Town. The Board appreciates the efforts of Youth of Massachusetts Organization for a Reformed Economy (YMORE) and looks forward to working with them to improve the health and environment of the Town.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 2, 2012, on the motion offered by the Advisory Committee.

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## ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This article, proposed in the form of a resolution, seeks to take a meaningful step in reducing the amount of diesel pollution during construction projects which occur in the Town of Brookline.

The petitioners are Brookline students and members of Youth of Massachusetts Organizing for a Reformed Economy (YMORE). YMORE is a coalition of teens in the greater Boston area who work for social justice and positive change. Their aim to is to reduce particulates from diesel fuel emissions which have been linked to an increased risk of asthma, diabetes, stroke, heart attack, cancer and global warming.

Their longer-term goal, as it relates to diesel pollution, is development and implementation of a state-wide diesel ordinance. This resolution is a means to that end. They hope that Brookline will pass this resolution and position itself as an ideological leader in a broader statewide effort by the MA Diesel Coalition, and the national Diesel Clean-Up Campaign.

The article initially asked that Town Meeting approve a resolution which would:

- Facilitate the use of cleaner diesel vehicles, (either new or retro-fitted) and other equipment used in local construction projects;
- Support enforcement of the no idling by-law, Article 7.5.8. of the General By-Laws for on-road and non-road diesel engines in use on construction sites; and

- Request the Board of Selectmen to work with relevant parties or appoint a Selectmen's Committee to develop a clean construction by-law.

The amended article now asks Town Meeting to pass a resolution which would create a task force to study the desirability and feasibility of enacting clean construction and compliance standards. It also calls for stricter enforcement of the Town's aforementioned no idling by-law.

*Other Communities:* Belmont, Boston, Newton and Winchester have also introduced or will soon introduce measures in their local governments to reduce diesel emissions, as have Chicago, Ill. and Providence RI.

*Clean Air Act:* The resolution does not appear to run afoul of the Clean Air Act (CAA) since it does not seek to protect air quality from carbon or vehicular emissions. Instead, the focus of the resolution is on particulate matter (PM) which negatively impacts health. The Town has home rule authority which permits it to adopt local regulations which concern the health and safety of its citizens. Any incidental reductions in carbon emissions that flow from the resolution are permissible.

*Current Equipment Standards:* Equipment manufactured since 2007 must comply with the federal clean air standards; therefore any new equipment the town purchases in any department will emit less PM than older equipment. However, most equipment, especially larger equipment, can last upwards of 30 years.

*Support:* Warrant Article 28 has the support of Brookline's Climate Change Action Brookline (CCAB), the Advisory Council on Public Health (ACPH), and Alan Balsam, the Director of Health and Human Services. Members of the public also came out in support of the article.

DISCUSSION:

In its first iteration the article specifically asked that the Board of Selectmen work with community stakeholders to develop a Clean Construction By-Law to achieve health and climate protections for review at the November 2012 Town Meeting, or to appoint a Selectmen's Committee to develop a by-law for consideration by Town Meeting.

Although this non-binding resolution was written in such a way as to encourage a discussion about the negative impact of particulate matter on construction sites, some members of the committee were uncomfortable with putting absolute dates on delivery of a by-law that could stem from it. These reservations were based primarily on the potential costs of unforeseen consequences should a by-law be crafted without enough research and careful consideration.

For example, the DPW, which has already retrofitted seven of the Town's rubbish packers using State grant monies, spent $2000 per unit. While the cost of the filters varies, some of the less expensive filters are less effective. The committee did hear from the Regional Diesel Campaign Organizer of Clean Water Action who noted there might be other, less expensive but equally effective, options for some of the Town equipment.

She also noted that there is Federal funding through the EPA (DERA) for diesel reduction projects.

Additional questions arose about whether any potential by-law would apply to the road work and water work contracted out by the Town; performance effects of modifications on larger equipment; whether a resulting by-law might make the public bidding process more difficult or more expensive should contractors be forced to buy or lease compliant equipment; and how a by-law might effect private construction projects.

To reconcile the practical concerns of crafting a workable clean construction by-law (or set of standards) with the laudable desire to reduce particulate matter from diesel emissions, the committee and the petitioners agreed on amended language. The amended language fully supports the goal presented in the initial article, while ensuring that the resulting report is thorough and not rushed to completion.

The salient changes include the removal of prescriptive review suggestions and the specific request for a clean construction by-law from the original article, and replace them with a request for the Board of Selectmen to direct the Town Administrator to create a task force. The task force of stake-holders and experts will be charged with:

- Examining the desirability and possibility of enacting a clean construction and compliance standards.
- Determining the best means of adopting change, whether it by general policy, by Town By-Law, or by State Statute; and
- Submitting a report to the 2013 Annual Town Meeting.

The amended language also asks for the strict enforcement of the no-idling By-Law for on-road and non-road diesel engines in use on construction sites.

RECOMMENDATION:
By a vote of 21-0-0, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: That the Town adopt the following resolution:

**WHEREAS,** the Town of Brookline is committed to ensuring the health, safety and well-being of its residents; and,

**WHEREAS,** air pollution has deleterious effects on climate stability, human health, animal life, urban agriculture and personal property, and limits the activities of citizens out in the community; and,

**WHEREAS,** according to the United States Environmental Protection Agency, diesel exhaust contains significant levels of small particles, known as particulate matter (PM), which contribute to 21,000 premature deaths each year across the nation[10]; and,

[10] Clean Air Task Force, *"Diesel and Health in America: The Lingering Threat,"* February 2005.

**WHEREAS,** black carbon is one of the largest contributing pollutants to global warming, about 2000 times more potent than the equivalent amount of CO2 over a 20-year period[11,12]; and

**WHEREAS,** the United States has the highest per-capita black carbon emissions in the world, and 57% of U.S. black carbon emissions comes from diesel engines: 41% from on-road diesels and another 16% from non-road diesels[13]; and

**WHEREAS,** approximately 28 percent of all particulate matter emissions in Massachusetts comes from construction and mining engines[14]; and,

**WHEREAS,** our most vulnerable citizens – the elderly and children – are those most sensitive to the health effects of diesel emissions, including those with existing heart or lung disease; and,

**WHEREAS,** the pediatric asthma rate in Brookline schools is 10.4% of enrolled students, and has been identified by the Health Department as a priority health issue to address[15]; and

**WHEREAS,** climate change strategies that provide near-term mitigation are needed to complement long-term efforts to reduce CO2 emissions; and

**WHEREAS,** upgrading older diesel engines with retrofit and other technology options will have immediate climate benefits while reducing a known contributor to asthma, stroke, diabetes, cancer and other cardiovascular and respiratory illness; and

**WHEREAS,** health insurance costs to the Town of Brookline are estimated to increase by $2.5 million in FY13 and projected to continue straining the budget through FY17[16]; and

**WHEREAS,** Keybridge Research, an international economics and public policy consulting firm, shows that investing in diesel pollution clean-up yields jobs and health outcomes, estimated at 19,000 jobs for every $1 billion of investment and $12 avoided in health damages for every $1 spent on reducing PM diesel pollution from engines[17]; and

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[11] Bond, T.C., and Sun, H. (2005). *Can reducing black carbon emissions counteract global warming?* Environmental Science and Technology, v.39, p.5921 – 5926.

[12] Ramanathan, V. and Feng, Y. (2008). *On avoiding dangerous interference with the climate system: formidable challenges ahead.* PNAS, v. 105, no.38, p.14245 – 14250

[13] Bond T., Streets, D., Yarber, K., Nelson, S., Woo, J., and Klimont, Z. (2004). *A Technology-based Global inventory of black and organic carbon emissions from combustion.* Jour. Geophys. Res., v. 109, p. D14203

[14] *The Massachusetts 2002 Diesel Particulate Matter Inventory*, Massachusetts Department of Environmental Protection, September 2007.

[15] *Pediatric Asthma in Massachusetts 2007-2008.* Massachusetts Department of Public Health, Bureau of Environmental Health, July 2010.

[16] December 6, 2011 PowerPoint Presentation, *Town of Brookline FY2012-FY2017 Long Range Financial Plan*

[17] KeyBridge Research (2008).

**WHEREAS**, some municipalities, cities and states across the U.S. have implemented policies to incent or require diesel engine upgrades for use on local construction and development project sites and limit the idling of heavy-duty diesel vehicles in order to reduce diesel pollution to better protect public health and the climate;

**NOW, BE IT RESOLVED,** that the Board of Selectmen is requested to direct the Town Administrator to create a Town Administrator's Task Force consisting of the Town Administrator, the Building Commissioner, the Director of Public Health, the Commissioner of DPW, a member of the Council of Public Health, a Member of the Town Building Commission, and three citizens, one with construction background, one with an environmental engineering background, and one Brookline High School member of YMORE; and that the Task Force be charged with examining the desirability and possibility of the Town enacting clean construction and compliance standards, including a study of cost-benefits; and to determine if adoption should be by means of guidelines and/or regulations, by means of a Town By Law, or by means of a State Statute; and submit a report to the 2013 Annual Town Meeting; and **BE IT FURTHER RESOLVED,** that the Board of Selectmen is encouraged to ask for the strict enforcement of the no-idling by-law, Article 7.5.8 of the General By-Laws, with respect to on-road and non-road diesel engines in use on construction project sites.

***XXX***

ARTICLE 29

TWENTY-NINTH ARTICLE

Submitted by: Frank Farlow, Town Meeting Member, Precinct 4, David Klaftler, Town Meeting Member, Precinct 12, and Heleni Thayre

To see if the Town will adopt the following resolution:

**Resolution concerning a constitutional amendment to reverse Citizens United and control the influence of money in elections**

WHEREAS, the First Amendment to the United States Constitution was intended to protect the free speech rights of people, not corporations, which are entities created by the laws of states and nations;

WHEREAS, the public has a compelling public interest in preventing corruption and the appearance of corruption among elected officials;

WHEREAS, during the past three decades a divided United States Supreme Court has transformed the First Amendment into a powerful tool for corporations seeking to evade and invalidate democratically enacted reforms;

WHEREAS, this corporate misuse of the First Amendment has reached its extreme conclusion in the Supreme Court's recent ruling in Citizens United v. Federal Election Commission, overturning longstanding precedent prohibiting corporations from spending their general treasury funds in federal, state and local elections;

WHEREAS, the Supreme Court's ruling in Citizens United has unleashed a torrent of corporate money in our political process unmatched by any campaign expenditure totals in United States history, e.g., in the 2012 Republican presidential primary "super PACs" made possible by the ruling have outspent the campaigns themselves and have effectively become their advertising arms;[1]

WHEREAS, the opinion of the four dissenting justices in Citizens United noted that corporations have special advantages not enjoyed by natural persons, such as limited liability, perpetual life and favorable treatment of the accumulation and distribution of assets that allow them to spend prodigious sums on campaign messages;

WHEREAS, the interests of large corporations are often in direct conflict with the essential needs and rights of human beings, and these corporations have used their judicially determined rights to reverse democratically enacted laws passed at the municipal, state and federal levels, rendering elected governments ineffective in

[1] http://en.wikipedia.org/wiki/Political_action_committee#Super_PACs and http://www.nytimes.com/2012/03/03/us/politics/super-pacs-not-campaigns-do-bulk-of-ad-spending.html

protecting their citizens against corporate harm to the environment, public health, and workers' welfare;

WHEREAS, in 1864 President Abraham Lincoln wrote, "As a result of the war, corporations have been enthroned and an era of corruption will follow, and the money power of the country will endeavor to prolong its reign by working upon the prejudices of the people until all wealth is aggregated in a few hands and the republic is destroyed";

WHEREAS, the Citizens United ruling thus presents a serious and direct threat to our democracy; and

WHEREAS, the people of the United States have previously used the constitutional amendment process to correct those egregiously wrong decisions of the Supreme Court that go to the heart of our democracy and self-government; Now, therefore,

BE IT RESOLVED that the Town Meeting of Brookline, Massachusetts, calls upon Congress to send to the states for their ratification an amendment to the United States Constitution which restores fair elections by granting to the federal and state governments the authority to regulate the raising and spending of money to influence elections and public policy, to allow public funding of elections, and to establish that corporations do not have free speech rights identical to those of real people; and

BE IT FURTHER RESOLVED that Town officials shall notify the following of this action by Town Meeting: the President of the United States, the Governor of the Commonwealth of Massachusetts, Brookline's congressional and state legislative delegations, *The Boston Globe* and the *Brookline TAB*.

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PETITIONER'S ARTICLE DESCRIPTION

This resolution asks Congress to send to the states a constitutional amendment that restores to the federal and state governments the authority to regulate contributions and expenditures in elections and clarifies that corporations do not have free speech rights identical to those of individuals.

In the January, 2010, case *Citizens United v. Federal Elections Commission*, the Supreme Court struck down bipartisan federal legislation that had limited corporations from spending their general treasury funds on political expenditures. As a result, for-profit corporations may now spend unlimited amounts to influence elections at all levels of government. Further, by equating unlimited spending to influence elections with free speech, the decision effectively eliminated government's ability to place any limits on campaign spending.

The Court's action dramatically dilutes the voice of every American who does not control a large corporate treasury or a vast personal fortune. Corporate lobbyists and other powerful special interests, as well as the extraordinarily rich, are now able to threaten public officials at all levels with the possibility of unending negative campaign ads if

their agendas are not supported — and the voices of ordinary citizens are drowned out of the electoral process.

The potential impact on elections is enormous: if ExxonMobil had spent just two percent of its 2008 profits in the last presidential election, it would have outspent presidential candidates McCain and Obama *combined*.[2] Indeed, according to the *Washington Post*, spending on television ads by groups independent of the campaigns is already *five times* what it was during the entire Republican primary season four years ago.[3] We're already seeing the avalanche of money resulting from the *Citizens United* case – by far the largest expenditures in the current Republican primary have been made by the super PAC of the leading candidate[4], suggesting that Super PACs have already become kingmakers – and the negative effects will only increase.

For over a century, Congress and the states have limited the role of money in the political process due to its inevitable corrupting influence. This is no less important today.

Before sending a proposed constitutional amendment to the states, Congress must first approve it by a two-thirds vote in both houses. Three-quarters of the state legislatures (38 out of 50) must then ratify the amendment for it to succeed.

(An amendment may also be proposed by a national constitutional convention called for by two-thirds of the state legislatures, but this has never happened previously. A third possibility is ratification by conventions in three-quarters of the states. This has occurred only once, when Prohibition was repealed).

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## SELECTMEN'S RECOMMENDATION

The Board of Selectmen's recommendation will be included in a Supplemental Report to be mailed prior to the commencement of Town Meeting.

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## ADVISORY COMMITTEE'S RECOMMENDATION

The Advisory Committee's recommendation will be included in a Supplemental Report to be mailed prior to the commencement of Town Meeting.

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[2] http://www.tvweek.com/blogs/2009/09/the-us-supreme-court-heard-a-case-yesterday-that-could-affect-millions-and-millions-of-dollars-spent.php
[3] www.washingtonpost.com/politics/.../gIQAH3dzjP_story.html
[4] http://www.opensecrets.org/pacs/superpacs.php

# ARTICLE 29

## BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Article 29 is a petitioned resolution that asks Congress to initiate a process of amending the constitution to reverse the Supreme Court's recent ruling in Citizens United v. Federal Election Commission and also asks that Congress establish that corporations, unions, and other organizations and associations do not have free speech rights identical to those of individuals.

In January, 2010 Citizens United v. Federal Election Commission decision prohibited the government from restricting independent political expenditures by corporations and unions. This ruling gave corporations and unions the same first amendment rights as individuals and opened the floodgates to unlimited spending in our elections by corporations and unions. Several cities and states are passing similar resolutions against corporate personhood. By adopting this resolution, Brookline will join these communities and declare that money is not speech and only natural persons have free speech rights in the electoral realm.

This Board agrees with the petitioners that corporate and union money should not dilute the voice of the American people. The Citizen United decision is a travesty and we have seen its effects in the current election cycle. The impacts of Super PACs in elections pose a great threat to the democratic process.

Therefore, the Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on May 8, 2012, on the following motion:

VOTED: That the Town adopt the following resolution:

**Resolution concerning a constitutional amendment**
**to reverse Citizens United and control the influence of money in elections**

WHEREAS, the First Amendment to the United States Constitution was intended to protect the free speech rights of people, not corporations, which are entities created by the laws of states and nations;

WHEREAS, the public has a compelling public interest in preventing corruption and the appearance of corruption among elected officials;

WHEREAS, during the past three decades a divided Supreme Court has equated money and speech, permitting unlimited independent political expenditures by individuals and

corporations under the First Amendment right to free speech, enabling powerful interests to evade and invalidate democratically enacted reforms;

WHEREAS, the Citizens United v. Federal Election Commission decision by the Supreme Court is its most expansive interpretation to date regarding First Amendment rights for corporations, unions and other organizations and associations, overturning longstanding precedent prohibiting such entities from spending their general treasury funds in federal, state and local elections;

WHEREAS, Justice John Paul Stevens stated in his dissent to this decision that "[t]he Court's opinion is...a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self-government since the founding, and who have fought against the...corrupting potential of corporate electioneering since the days of Theodore Roosevelt;

WHEREAS, the opinion of the four dissenting justices in Citizens United also noted that corporations have special advantages not enjoyed by natural persons, such as limited liability, perpetual life and favorable treatment of the accumulation and distribution of assets that allow them to spend prodigious sums on campaign messages;

WHEREAS, large corporations have often used their judicially determined rights to influence elections, legislation and public policy and to reverse democratically enacted laws passed at the municipal, state and federal levels, rendering elected governments ineffective in protecting their citizens against corporate harm to the environment, public health, and workers' welfare;

WHEREAS, the financing of elections is strikingly undemocratic, more than half of the $60 million collected in this election cycle as of mid-March by super PACs coming from 24 wealthy individuals;

WHEREAS, in the 2012 Republican presidential primary, "super PACs" made possible by Citizens United have outspent the campaigns themselves and have effectively become their advertising arms despite being ostensibly "independent" of the candidates and their campaigns;1

WHEREAS, political developments of the last few decades bring forcefully to mind President Lincoln's 1864 statement, "As a result of the war, corporations have been enthroned and an era of corruption will follow, and the money power of the country will endeavor to prolong its reign by working upon the prejudices of the people until all wealth is aggregated in a few hands and the republic is destroyed";

WHEREAS, the Citizens United ruling thus presents a serious and direct threat to our democracy; and

WHEREAS, the people of the United States have previously used the constitutional amendment process to correct those egregiously wrong decisions of the Supreme Court that go to the heart of our democracy and self-government; Now, therefore,

BE IT RESOLVED that the Town Meeting of Brookline, Massachusetts, calls upon Congress to send to the states for their ratification an amendment to the United States Constitution which restores fair elections by

- granting to the federal, state and local governments the authority to regulate the raising and spending of money to influence elections, and to allow public funding of elections, and

- establishing that only natural persons have free speech rights in the electoral realm; and

BE IT FURTHER RESOLVED that Town officials shall notify the following of this action by Town Meeting: the President of the United States, the Governor of the Commonwealth of Massachusetts, Brookline's congressional and state legislative delegations, The Boston Globe and the Brookline TAB.

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## ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
Many Americans, including President Obama, have expressed concern about the January 2010 Citizens United decision of the Supreme Court. That decision equated political contributions with free speech and permitted corporations, organizations and individuals to contribute unlimited amounts of money to political campaigns. Across the country, individuals, including those in elected positions, and organizations such as Move To Amend are pressing Congress to send to the states a constitutional amendment that restores the ability of federal and state governments to regulate the financing of election campaigns and specifies that only individuals, and not corporations and other entities, enjoy rights given to natural persons under the Constitution.

Petitioners Frank Farlow, David Klafter and Heleni Thayer have submitted Warrant Article 29 which is a resolution supporting a constitutional amendment to further these goals.

At the first hearing of the Advisory Committee subcommittee, petitioners explained that they were engaged in redrafting of the whereas clauses and asked our advice concerning those. Members felt that the whereas clauses should focus more on facts and less on the subjective ideas involved. The subcommittee members voted unanimously to support the

resolve clauses as they were originally submitted, but agreed to hold another hearing on the anticipated redraft of the resolution.

At the second hearing of the subcommittee on May 8, the petitioners presented a redrafted resolution where they characterized the changes to the whereas clauses as the removal of inflammatory language with more substance and less invective. They also explained that the resolve clauses had been tightened and simplified.

The subcommittee members agreed that the redrafted whereas clauses were more focused on factual material, more objective and even handed. One member thought that the resolve clauses were less legalistic and perhaps not as artful, but agreed that the changes in the resolution were an improvement.

DISCUSSION:

At the full Advisory Committee meeting on May 8, the discussion focused on the changes that the petitioners had made and factual information about the recent significant increase in election spending. The numbers of wealthy individuals, (as of mid March 2012, there were 24) who are spending huge sums, more than $30 million, during this election cycle is expected to grow as we move closer to the election.

One member was concerned about the free speech rights of corporations and other organizations being curtailed in the second bullet of the first resolve clause and felt that that language was too ambiguous. The petitioners responded that the entire resolution relied on the dissent of Judge John Paul Stevens and other committee members pointed out that the specific language is not so crucial, that this resolution is essentially requesting that the Congress begin the process of amending the constitution and the language of this resolution will not be important in the Congressional writing of such an amendment. What is important is adding support and momentum toward making changes in the election financing laws.

The petitioners pointed out that the Supreme Court has allowed corporations and wealthy individuals unfettered influence in elections and the main point is to return the election processes to the hands of individual voters. The petitioners also informed the Advisory Committee that, as of May 8, 43 other municipalities in the Commonwealth of Massachusetts have supported similar resolutions.

RECOMMENDATION:

Realizing the growing and extreme influence of money in public elections and believing that democracy suffers when it is controlled by a very few, a substantial majority of the full Advisory Committee recommends FAVORABLE ACTION, by a vote of 20 – 2, on the amended resolution offered by the Selectmen.

## ARTICLE 30

## THIRTIETH ARTICLE

Reports of Town Officers and Committees

# Town of Brookline
## Massachusetts

**HOUSING ADVISORY BOARD**

Roger F. Blood, Chair
Steven A. Heikin
Michael H. Jacobs
Rita K. McNally
Rufus Phillips
Karen J. Kepler
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## AFFORDABLE HOUSING UPDATE

**May 2012**
**Annual Town Meeting**

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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 for income-eligible owners and renters.

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 2011 Annual Town Meeting, the Housing Advisory Board (seven citizen appointees) and Housing Division staff have undertaken the following efforts to achieve these objectives:

1. Significantly advanced the **redevelopment of the 4.8 acre Town-owned reservoir site on Fisher Avenue as "Olmsted Hill"** in collaboration with New Atlantic Development Corporation (NADC)**.** Since the spring of 2011, the two underground reservoirs have been dismantled and filled, the subdivision infrastructure has been installed, all 10 market-rate, single-family building lots have been sold, and construction of the three-building, 24-unit affordable condominium complex has nearly been completed.

   The Town has been paid the sales price for the land ($3.25 million); and an additional $2.3 million in proceeds from the single family lot sales is supplementing the Town's $2.1 million subsidy (Brookline Housing Trust and federal HOME funds) for the affordable units. The

Housing Division has marketed the development, selected finalists and alternates via a lottery, and is assisting buyers though the purchase process. The goal is to close all units by the end of the summer.

2. Assisted the Brookline Housing Authority's effort to **develop a new 32-unit low income rental project** at 86 Dummer Street on an underutilized portion of the site of the BHA's existing Trustman Apartments. With predevelopment funding of over $410,000 from the Town's Housing Trust and the Town's commitment of the balance of up to $1.7 million, the BHA was able to complete the regulatory process, develop construction-ready documents, achieve its first funding commitment from the Federal Home Loan Bank Affordable Housing Program, and submit a competitive application to the Commonwealth for low-income housing tax credits and various State subsidies. This project is now awaiting funding approval from the Commonwealth.

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; included an additional 14 market rate condominiums; and conserved the historic courtyard and beech tree. The affordable units have been occupied since 2009, and the last market-rate units closed in June of 2011.

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 sell two affordable condominium units to selected, income-eligible buyers.

   - Marketed, selected by lottery, and prepared income-eligible buyers for two affordable condominium units at 109 Sewell Street.

   - Worked with the developer of 321 Hammond Pond Parkway to finalize floor plans for four on-site affordable units.

5. Continued to **support affordable homeownership** for those seeking or already owning an affordable home in Brookline, including the following:

   - Counseled prospective purchasers.

   - Exercised the Town's right-of-first-refusal under permanent deed restrictions in the re-sale of four condominium units by marketing, holding lotteries and effecting transfers to -- and thereby maintaining affordability for -- a new generation of eligible homebuyers.

   - Assisted income-eligible buyers of affordable units to access low-cost loans through close coordination with lenders providing targeted portfolio loans to Town-sponsored units and/or participating in the Commonwealth's SoftSecond and MassHousing programs.

- Worked with owners of deed-restricted units seeking to reduce ownership costs through refinancing.

- Consulted with one owner of a deed-restricted unit to work out a default; and worked with bank, condominium association and the nonprofit Brookline Improvement Coalition to bid for and acquire another deed-restricted unit in foreclosure, contract for rehab, and prepare the unit for resale to another income-eligible household.

6. Worked with nonprofit property owners to **preserve existing affordable housing** through energy savings and other capital improvements funded by the federal Community Development Block Grant (CDBG) :

   - Completed a $192,000 program of improvements at Humanity House's 10-room residence for adults with special needs at 16 Williams Street, and a $32,000 program at Brookline Improvement Coalition's six-family property at 154-156 Boylston Street.

   - Initiated work with Specialized Housing, Inc., which seeks to improve four residences which serve adults with special needs.

   - Developed contracts with the Brookline Housing Authority to supplement its CDBG funding with an additional $369,000 for shorter term projects of improvements to six BHA housing developments.

7. Worked to assure **continued affordability through annual monitoring** of 136 affordable homeownership units and almost 500 affordable rental units at 17 Brookline properties.

8. Administered the grant for Brookline's **Homelessness Prevention and Rapid Re-Housing Program,** funded under the American Recovery and Reinvestment Act of 2009 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 had already assisted 528 individuals in 263 households by the end of 2011. With federal funding ending this fall, service providers are seeking ways of continuing this critical safety net.

9. 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**.

10. Began working with other members of the **WestMetro HOME Consortium,** which provides Brookline access to annual allocations of federal HOME funds, to explore alternative consortium structures, given a combination of lower levels of funding and more costly/stringent rules and regulations.

***For ongoing information about the Town's affordable housing programs and opportunities, please visit www.brooklinema.gov/housing.***

Final Report of the Moderator's Ad Hoc Committee on Electronic Voting

Committee Charge, Membership and Meetings: The Committee on Electronic Voting (E-voting) was established by the Moderator in late November of 2011 and charged with examining the feasibility, utility and probable cost of implementing a system of E-voting for use at Brookline Town Meeting. Membership consisted of Joel Shoner (representative of the League of Women Voters), Stanley Spiegel (TMM Pct 2), Robert Stein (past chair of Selectman, Adv. Committee, 2005 Voting Technology Committee), Kevin Stokes (Brookline Director of Information Technology), Pat Ward (Brookline Town Clerk), Neil Wishinsky (TMM Pct 5) and Sandy Gadsby (Brookline Moderator and non-voting ex officio member). At the committee's first meeting, Mr. Stein was elected Chair, Mr. Spiegel as vice Chair and Mr. Ward as Secretary by unanimous vote. The Committee met seven times between late November and mid February. It interviewed the IT Director and the Moderator of the Town of Chelmsford, which has recently implemented E-voting for its representative TM. Both spoke very highly of its use, with no problems once TMMs got used to it the first night. The Town of Framingham (representative TM) is in the process of implementing E-voting and Wayland (open TM) has used it at one meeting to date. Also interviewed were various E-voting and Audio Visual equipment vendors.

Summary Recommendation of the Committee: The Committee recommends, by unanimous vote, that Brookline adopt the use of E-voting at Town Meeting and upgrade the AV equipment in the Brookline High School (BHS) auditorium as required to facilitate the use of E-voting.

Background: The issue of Town Meeting (TM) potential adoption of electronic voting is not new to Brookline. It was first examined in the 2001-2002 Moderator's Committee on Alternative Voting Methods and the 2005 Moderator's Committee on Voting Technology. Neither of these previous committees (both were established by vote of TM) presented a specific recommendation on E-voting, although both examined the pros and cons in relation to other methods of roll call voting, as well as cost. In the 2001 examination the cost was estimated to be about $69000 (rental about $6200 per day) and in the 2005 review between $20,000 and $25,000 for simple one way hand-held devices (which transmit the TMMs vote to a centralized computer but provide no feedback as to what vote was actually recorded). We will discuss more on this feedback issue below. The 2001 Committee recommended a "colored card"[1] experiment to be tried on all votes at the 2003 Annual TM, but that recommendation was never acted upon. More recently

[1] The colored card method consisted of red, green and white cards, signifying Nay, Yea and Abstain respectively, being pre-printed with individual TMM names on it, and handed out prior to TM. When a vote was taken, TMMs voting in the affirmative would stand, as they do now for recorded votes, holding up their green cards. The tellers would count the votes and collect the green cards. The same procedure would be followed for the No votes and then for the abstentions. The following day the names and votes as signified by the collected cards would be entered into the record. Only one such vote was taken, as an experiment, at a 1984 Special TM on recommendation of the League of Women Voters.

"ballot" voting has been employed when an accountable vote is requested, in which, instead of colored cards, blank ballots are handed out to each TMM. The ballots are filled out and are collected by the tellers, who count them and give them to the Town Clerk, who records them into the record after Town Meeting.

The 2005 Moderator's Committee report provides a good review of the various methods of recorded voting, including E-voting, together with an assessment of cost, risk, time to vote, etc.[2] The report that follows herein will take a closer look at the issues of E-voting process, its current usage in Massachusetts TMs, the cost of implementation (both for the E-voting equipment as well as necessary upgrades to the Audio Visual (AV) equipment at the High School auditorium) and the timing associated with E-voting as compared to other methods of recorded votes.

How E-voting works: E-voting works by providing each voting participant with a hand-held device. Each device has a unique code which identifies the specific unit. The identifier is associated with a particular participant by pre-assignment. When a vote is to be taken, the participant presses one of three buttons -- #1 for an affirmative vote, #2 for a negative vote and #3 for an abstention. The votes are sent via a wireless network to a nearby computer. The computer instantly tabulates the votes, creates an electronic record of the voting and provides the user with the ability to present the results in any standard format (e.g., Word, Power Point, Excel, or free form).

Recommended E-voting Process for TM: Much of the discussion at the Committee's meetings centered around the issue of how E-voting might be used. We recognize that the process for use at TM is not up to the Committee to determine, but something that falls under the purview and discretion of the Town Moderator. We also note that whatever process we recommend here will likely change over time as TM learns from its initial experience with E-voting. Nevertheless, since the process significantly impacts the timing, risk of error, methods to be employed, operating cost, and acceptability to Town Meeting Member (TMM) users, the Committee felt strongly that a suggestion to the Moderator and TMMs on a preferred initial process was both useful and informative, and a necessary component of our recommendation. In examining potential methods, the Committee experimented with various forms of representative tally screens that might be projected at TM for the review of votes. For each type of screen the Committee assessed the legibility, time for name and vote recognition, and whether or not the current A/V equipment at BHS was useable for such purposes for a TMM at a distance from the screen representative of the distance to the back row of the TMM section in the BHS auditorium. Aided by this review, our recommendation on a suggested process, arrived at by unanimous vote at our meeting on Feb 13, is provided below.

[2] For the reader interested in the details of that review, it is attached to this report as Appendix 1.

- *When should E-voting be used:* Initially under three conditions
  - If 35 or more TMMs ask for an E-vote
  - If the Moderator is in doubt of the count on either a vote or a quorum count
  - If seven or more TMMs challenge the Moderator's count – can apply to a quorum count as well as a vote
- *When should a record of TMMs votes be kept:* Only under condition 1. At all other times an E-vote is taken the purpose is solely to provide an accurate count and the record would not be preserved.
- *Process for E-voting at Town Meeting:*
  - Shortly before the first evening of TM, Town staff will ensure that all hand held devices are working properly. They will also make sure that a hand held device is assigned and properly labeled for all current TMMs as well as for any new members to be sworn in at the meeting. The devices will be divided into groups, depending upon its assigned TMM's precinct.
  - At TM, TMMs will check in at four stations, according to precinct, and receive their assigned hand held voting device.
  - When an E-vote is to be taken, the moderator will call for Yea votes, those voting Yea will stand for 20 seconds and push the "1" button on their handheld device. They may push it anytime and as often as they wish, until, after 20 seconds, the moderator tells them to sit down. The moderator will then call for the Nay votes and the same process will be followed, except that the Nay voters will push button "2." When the Nay voters sit down, the Moderator will call the voting closed (those abstaining may push button #3 whenever they choose during the two voting periods). Buttons may be pushed at any time during the entire 40 second voting period – it will be the final push before the Moderator calls the voting closed that will record their vote. The purpose of the standing vote simulation is to provide visual feedback to TMMs in the existing tradition of Town Meeting and will not constitute the official and binding vote.
  - Following the 40 seconds of voting, the moderator will call the voting closed and the precinct by precinct TMM recorded votes will be displayed on the screen at the front of the auditorium. Four precincts at a time will be displayed per screen, each screen for about five seconds.[3] A final fifth

[3] The committee experimented at three different meetings with various screens displaying TMM votes. The purpose was to determine how many precincts could be displayed on a single screen, how to represent Yea, Nay and Abstain voting, how much time was required per screen for name and vote recognition, etc. We scaled the size of the screen in the conference rooms in which we met to that which would represent the screen size and distance to the rear row of the TMM section in the BHS auditorium. The result of all of that experimentation and examination was that four precincts (60 names and color coded votes) with a five second recognition period worked well. In the meeting that we held in the auditorium, it was clear to make this work, the projector would have to be upgraded to modern standards.

screen will display the votes of at-large members, as well as the final tallies.

- The moderator will then call for any TMM who feels that his/her vote was recorded in error to stand and ask that their vote be changed. The moderator will instruct the IT assistant to make the change, who in turn will acknowledge the change and make it visible on the screen. The moderator will also ask any TMM who believes that a vote was cast by a member who was not present to make that challenge and the member who was challenged will rise to acknowledge his/her presence. Failure for the member to stand will result in the vote being removed from the tally. If there are no changes or challenges requested, the results will become final.
- If any changes or challenges were requested, the results, as amended, will be displayed on the screen a 2nd time in the same manner in which they were originally displayed. The only challenges that will be permitted this 2nd time will be ones that were requested after the first screen but that were not properly corrected. After this final screen, with corrections if required, the results will become final.

E-voting equipment recommendation: There are basically two types of E-voting hand helds – a less expensive option (about $10K – $15K for 250 devices plus peripheral equipment and software) that simply allows its user to record his/her vote on a remote computer, and a more expensive option (up to $34K) that provides feedback to each user as to what vote (yea, nay, abstain) was received and recorded. The more expensive option also contains some security enhancements as well that, depending upon one's concern about jamming or hackers, may add some functionality. The Committee had mixed feelings about the added value of the more expensive option. Some members believe that the less expensive option is adequate, given the review process for validating TMM votes described above, and some believe that the individual feedback is worth the added expense because of the added surety it provides. They also believe that eventually the feedback might eliminate the need for the two screen review process outlined above, thereby reducing voting time. After considerable discussion the committee as a whole agreed that there was some potential value in the feedback option although it was not unlimited, and thus the Committee voted unanimously to recommend the feedback option, with the proviso that its cost to the Town was no higher than 50% more than the non-feedback option or, based on current estimates, a ceiling of about $25K.

AV recommendation: It was clear at our meeting in the High School auditorium, as well as the experience of the Committee's TMMs, Moderator and Town Clerk that if all of the above were to work, the AV equipment in the auditorium would have to be upgraded so

that the voting screens were clear and legible. The Committee, with the help of the Town's IT Director and the High School Audio/Visual Coordinator Mark Vanderzee, solicited upgrade options and pricing from two AV vendors, both of which provided the Town with some specific options. Based on those inputs and the experimentation the Committee conducted in examining representative presentation screens, the Committee recommends that the Town and School Department upgrade the AV equipment in the HS auditorium. In terms of E-voting needs, the minimum upgrade should include a new projector of at least a 7000 lumens intensity (for reasonable contrast at an auditorium ambient light level of about 65 lux, which would obviate the need to dim the lights every time the projector was used), a minimum resolution of 1280 x 800, a zoom lens capable of filling a 16 x 10 foot image from the existing projection booth (about 75 feet from the existing screen position), electronic distortion correction (key stoning, etc.) and provision for wireless remote operation. Since this will benefit both the High School auditorium educational users as well as Town Meeting, the committee felt that some kind of school/municipal sharing of this cost might be appropriate.

Approximate Purchase Cost (assuming 50% ceiling for feedback option): Summary costs to implement the recommended options above are provided below. It is our assumption that the E-voting equipment will be carried in the IT Department CIP for FY2013 and the AV upgrade will be part of a more complete upgrade that is currently being discussed within the School Department. We note that the AV upgrade listed here is that necessary for the proper adoption of E-voting at Town Meeting, but that it will also substantially improve any AV educational use for school purposes as well.

E-voting Equipment: $15K (without feedback) $25K (with feedback)

AV Upgrade for TM users: $14K

Projector (7000 lumens): $10K (incl. lens)

Linkage for remote ops: $2K

New lectern and audio tie: $1.5K

Annual Operating cost: $2K per year, assuming 10 days of TM annually

1. Prior to 1st session of TM (3 per year), 3-4 person hours for checkout of the handheld devices: $240 (GIS intern for 12 hours per year)
2. At each TM session, one additional check-in station for the duration of each session: $800 (a 33% increase over current allocation for TM in Town Clerks office)
3. At each TM session, the presence of an IT staff member for the duration of the session: $800 (one GIS intern for 40 hours per year)

4. Battery replacement once per year: $200 (500 batteries @ a bulk buy of $0.40 per battery)

Assuming a high of 10 TM sessions a year and using maximum 2012 part time salaries in the Town Clerk's office and in the IT department, this would amount to approximately $2000 per year.

Summary: In summary the Committee unanimously recommends that the Town move to implement the use of E-voting at its Town Meetings for situations in which recorded votes are requested or more accurate voting counts are needed. There are three primary benefits that accrue to the use of E-voting:

1. The time required for recorded votes or accurate count votes will be reduced significantly. Approximate times for the various methods are:
   a. Roll call vote: 25 minutes[4]
   b. Ballot vote: 10+ minutes[4]
   c. Standing count by tellers: 8-10 minutes
   d. E-voting – no challenge: 1 ½ minutes
   e. E-voting with challenge: 2 minutes
2. A highly accurate vote is easily and quickly obtained under any situation that demands increased accuracy over counting hands or standing heads
3. It allows the Town to take advantage of today's IT technology in essentially a risk free environment. Given the process outlined above, with or without the use of feedback, the potential for miss-counts of even one vote through various kinds of "mischief" is reduced to near zero. Although Brookline would have been a pioneer in this type of TM voting a few years ago in the previous examinations, this is not longer the case, as at least two communities with representative TMs have adopted it. The one that has actually used it at a multi-session representative TM has given it rave reviews, the other one that used it last year at one TM is negotiating its purchase with a vendor and other towns are currently in the process of considering and evaluating its use.

The obvious downside is that there is a cost associated with both purchasing the equipment and using it at town meetings. The Committee cannot, of course, "prove" that the expenditure for the purchase of the equipment and annual operation provides a value commensurate with the cost. That will be a subjective assessment for the Selectmen, the Advisory Committee and TMMs to determine for themselves. But as an input to this determination, the Committee believes that this small price ($15000 - $25000 amortized over an assumed E-voting equipment life of five years plus $2000 per

[4] These methods also require 2 hours after TM to transcribe the results for each standing or ballot vote taken

year in operating cost for a total of $5000 - $7000 per year annual cost – less than 0.003% of the Town's total budget) is well worth the added benefit in efficiency, time savings and accuracy it will provide to the Town's legislative body as it debates, votes and establishes the nearly $250M total budget and all of the other critical legislative issues that arise each year. We believe that enhancing that process by speeding it up, enhancing accuracy and making the process less burdensome is in the best interest of the town.

Respectfully,

Joel Shoner
Stanley Spiegel
Robert Stein
Kevin Stokes
Pat Ward
Neil Wishinsky
Sandy Gadsby (ex officio)

Appendix A

Final Report of the Moderator's Committee On Voting Technology for Town Meeting

The Moderator's Committee on Voting Technology for Town Meeting was established under Article Twenty in the Warrant for the November 15, 2005 Special Town Meeting. The vote, passed by a majority of Town Meeting Members, read as follows:

*Voted: That Town Meeting authorize the Moderator to appoint a committee to investigate and report to the 2006 Fall Town Meeting the available options for forms of voting that record and/or display the votes of each Town Meeting member on matters at town meeting, without the necessity of a so-called "roll call" vote.*

The committee met a number of times since its inception in the late fall of 2005. It reviewed the long history of examination of, and experiments with, different methods of recording individual Town Meeting member votes, including the introduction of the roll call vote in 1970, the various changes in the number of Town Meeting members required to request such a vote, the 1985 Moderator's Committee on Roll Call Votes and their recommended experiment with colored cards, and the 2001-2002 Moderator's Committee on Alternative Voting Methods.

In all of these examinations, four issues were commonly seen as the Measures of Effectiveness of any proposed scheme:

1. **Time:** The time required to take a vote that provides a lasting record of how each Town Meeting Member present voted on a given warrant article or amendment
2. **Security and Assurance:** The degree to which each Town Meeting Member's recorded vote resulted from the action of that particular member on the floor – i.e., no proxy voting by another member for someone who has left
3. **Cost:** The cost of implementing the proposed scheme, both in terms of initial start up and the recurring cost at each Town Meeting
4. **Other:** Any other issue of significance, particularly procedural complications at Town Meeting related to signing in and out, taking the vote or displaying the results so that each member can be sure that his/her vote was recorded correctly.

We believe that these measures are indeed the correct ones for proper evaluation and will thus use them below to evaluate on a relative basis the various options currently available to Town Meeting. We also believe that any recommendation that we might make on whether or not Town Meeting should adopt one or an other of the schemes below would provide no more value than what any Member might feel is the right course after reviewing all of the facts. With that in mind, we will endeavor below to lay out the facts surrounding three alternative schemes – the current method of roll call, the color cards and current generation wireless electronic voting. We will refrain from making any specific recommendation but will leave that decision to each member as he or she sees fit.

**1. Standing Roll Call:** This is the current scheme used by the Moderator today to record the individual votes of each Town Meeting Member. Upon the request of 50 or more Town Meeting Members the Moderator reads the names of each Member, who then answers "Yes," "No" or "Present" (equivalent to an abstention). As the members respond, the Town Clerk records the votes against a printed list of the names and the votes are so recorded for posterity. The time required to take such a vote is typically in the order of 30 minutes or so. There is essentially no cost associated with this method nor is the procedure complicated in any regard. Since each

member verbalizes his/her response in the vicinity of other Members, it would be difficult for anyone to proxy vote and the chances of "getting caught" would be high. The only chance for error would be a mistake made by the Town Clerk in recording, and although there is no method of providing an immediate check on what was recorded for each Member, there has never been, to our knowledge, any case of either proxy voting or a recording error.

**2. Colored cards:** The color coded card system was first suggested by the League of Women Voters in 1984 and was tried on one vote at a Special Town Meeting in January 1985. The procedure for the color coded card system is as follows:

- A quantity of red, green and white cards with individual Town Members' Names were pre-printed prior to Town Meeting.
- As each Member entered the auditorium and signed in at the teller's station, he/she was given some of each kind of card containing that Member's name.
- The vote to be recorded was taken as a "standing vote." All members who were voting in the affirmative stood in response to a request by the Moderator. The tellers would both count the vote and collect the green (yes) cards. Those members would sit down, those voting against would stand and the same procedure was followed using the red (nea) cards. Lastly, anyone wishing to be recorded as "present" would stand and hand in the white cards.
- The next day the names of the members and their votes as signified by the cards that they had handed to the tellers would be recorded into the record.

The time required to take this type of vote was between 10 and 15 minutes, not including the time to transcribe the votes the following day. No startup cost was required and the recurring cost was minimal – essentially being the cost of printing up the cards and the time required to transcribe the names the following day (no records were kept of that time, but we guess that it must have taken something in the order of two hours or so). The potential for proxy voting is somewhat higher than in the roll call vote above, but still the visual observation of a Member handing in two cards or a non-member handing in a card is possible either by fellow Members and/or the tellers and should be a reasonable deterrent to such mischievous action. One other potential disadvantage noted in the 2002 report was the possibility of a Member standing one way for observation by his/her colleagues and handing in a card to record a different vote. The 2002 Moderator's Committee recommended that this method be tried for all votes taken at the 2003 Annual Town Meeting but that recommendation was never implemented.

**Electronic Voting:** Electronic response polling is becoming more and more widely used in advertising, business, training seminars, conferences and some legislative bodies. The 2002 Moderator's Committee examined various electronic voting methods, including hard wired radio frequency (RF), wireless RF, infrared (IR) and passive RF Identification (RFID) tags. They also examined alternative acquisition methods for the wireless RF devices, including the purchase ($68,600) and rental ($6190 per day). As in all consumer electronics, these prices have reduced significantly over the last few years, and in particular, the purchase price, which has gone down by more than 70%.

If the Town was going to use electronic voting, the clear way to go today would be the purchase of roughly 300 wireless RF handheld devices, a base station to collect the handheld responses and a software license for the software used in the base station to functionally make the entire system work. The handheld devices themselves would contain 3 buttons – one for responding with a "yes," one for a "no" and one for "present." The typically work over a minimum linear

range of 100 meters or so, more than adequate to cover the high school auditorium. The responses from the entire body are collected automatically by the base unit and are identified and recorded in less than one second. The file the system produces is designed to interface with standard Microsoft Office products, enabling almost instant tallying in either a Word document or an Excel spread sheet. Either of these would allow pre-tailoring the format and display of the results of a vote to whatever appeared to be the most useful and appropriate method. Multiple methods could also be employed, such as one method for presentation of the results at Town Meeting and another format for permanent archiving. The flexibility is that that derives from Office and is independent of the device itself. Our committee contacted a few of the vendors that sell such devices today and four of our members participated in a web-based interactive demonstration provided by one of the vendors. The demonstration verified the various features that had been described in the brochures that we had received, including the timelines and the interfacing with Microsoft Office products. Acquisition cost for the entire system (not including a PC to host Office and a projector to display the results, both of which are available at the High School) would be competitively bid out, but should be under $20,000.

Given the apparent functionality of the system, the availability from various vendors and the current pricing, the committee's attention focused on the issue of security and the for potential fraudulent voting. A significant amount of attention was devoted to the various methods and procedures that could be used to employ the system at Town Meeting. After much discussion, a "strawman" process was identified that addressed to the extent possible the security issues surrounding the use of electronic voting. A draft procedure is described below:

- When taking the oath of office, a Town Meeting Member pledges that the only votes that will be cast in that member's name will be those that are personally entered by the individual.
- After taking the oath, the member is given a hand held unit for the duration of that member's term of office. The device's ID number (there is a unique one for each device) is assigned to that member's name.
- When a recorded vote is to be taken at Town Meeting (the committee did not get into the issue of whether or not all votes would be recorded or how many Town Meeting Members it would take to request such a vote – we felt that that would be better left to the discretion of the Moderator):
    - A message would flash up on the screen in the front of the auditorium, reminding Members of the oath they pledged upon taking office
    - Those voting in favor would be asked to stand (as in a standing vote today) and would have ten seconds to press the "yes" button on their handheld. During those ten seconds, the vote could be cancelled if desired. At the end of the ten seconds the unit would freeze out.
    - The "yes" voters would sit down and the "no's" would stand and the same procedure would be used for the "no" votes.
    - Lastly, any "present" votes would be taken and recorded.
    - Upon the completion of the vote the names and responses are scrolled across the screen in groups of ten for approximately five seconds a group.
    - At the end of the scrolling, the totals are presented and the moderator asks if any member wishes to challenge the results. A challenge may result for two reasons:
        1. His/her vote is in error. In this case, it would be automatically changed.

2. The challenger does not believe that a particular Member was present, even though his/her vote was recorded. In that case, the challenged person rises to affirm his/her presence or the vote is nullified.
3. After the challenge is resolved, if there are any changes, the new totals are presented on the screen.

- The entire process outlined above should about 3 minutes, exclusive of any challenges, which would likely be rare.
- At the end of a Member's term the units would be returned to the Town. Any member who was not reelected or did not choose to run for office again and failed to return the unit within a reasonable amount of time would be charged for it. Damaged or first time lost units by a serving Member would be replaced free of charge.

The process outlined above is presented simply as an example of one that attempts to balance the complication of the process with reasonable safeguards against voting abuse. In the end, however, it would be the Moderator who would decide what process was to be used. Regardless of what procedure ends up being used, should Town Meeting decide it want to employ electronic voting (or the even the card system), the issue of fraudulent voting ultimately rests on two things:

1. The inherent honesty and integrity of elected Town Meeting Members
2. The probability (and corollary risk of embarrassment) that a person who has left the hall and gives his/her proxy vote to another person will be noticed by another Member.

As mentioned above, the one time cost for such a system is expected to be slightly under $20,000. The recurring cost would be that of an IT clerk at each Town Meeting session and the occasional purchase of replacement units. If we assume the loss or damage of 5% of the units per year, this would require a restocking of about 50 or so units in five years for an estimated cost of about $1500 or so. Overall lifetime of the entire system could be expected to be similar to that of most consumer electronics – somewhere between 10 and 15 years.

**Summary**

The three methods are summarized in the table below:

| | Time | Security | Acquisition Cost | Recurring Cost |
|---|---|---|---|---|
| Roll Call | 30 minutes | Very high | none | none |
| Card System | 10 - 15 minutes | Slightly less | none | Two person hours per vote |
| Electronic | 3 – 4 minutes | Slightly less | $20,000 | Four person hours per session |

The questions that remain are ones that only Town Meeting can decide:

- To what extent does Town Meeting want, and should the public expect, for the votes of each member, particularly on highly contested issues, to be part of the public record?
- What are the tradeoffs between the time it takes for such a vote can be taken; the dampening of willingness to take such votes as a function of the time required to take

them and the slightly higher potential for "mischievous" proxy voting associated with the two non-roll call methods?

- Is the use of today's electronic technology for automated recorded voting worth the acquisition cost of $20,000 and a few hundred dollars per year for replacement of devices?

We feel that each Town Meeting Member is in a position to answer these questions themselves, given the facts that we provide above, and therefore we submit our report for consideration.

Respectfully,

Gilbert Hoy
Stanley L. Spiegel
Alexandra "Sandy" Spingarn
Robert M Stein
Patrick J. Ward

# TOWN OF BROOKLINE

Moderator's Committee on Parking and Zoning

# MAY 2012 INTERIM REPORT

| | | | |
|---|---|---|---|
| **To:** | Brookline Board of Selectmen<br>Brookline Advisory Committee<br>Brookline Town Meeting | **Date:** | May 10, 2012 |
| **Attention** | Mr. Edward N. (Sandy) Gadsby, JD<br>Town Moderator<br>Town Meeting | | |
| **Subject:** | **Moderator's Committee on Parking** | | |
| **Place of Meeting:** | Brookline Town Meeting | | |
| **Purpose:** | May 2012 Interim Report to Town Meeting on Committee's work and accomplishments | | |

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.

A number of meetings were held in 2011 at Town Hall (January 5, February 9, March 9, March 30, April 20, May 18, June 29, July 20, April 20, August 17, September 21, October 24, and November 30) as well in 2012 (January 11, February 15, and April 11). All of these meetings were "noticed" in the Calendar section of the Town's website as well as in the Brookline TAB. 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.

As part of that information gathering, the Committee invited a number of individuals to speak on both sides of the issues: Town Meeting Members Linda Pehlke and Sean Lynn-Jones (February 9, 2011); Stanley Spiegel and Jonathan Davis (March 9, 2011); Michael Durrand, real estate developer of the condo project at 70 Sewall Avenue (April 20, 2011); Stephanie Groll, City of Cambridge; Parking and Transportation Demand Management Manager (August 17, 2011); Brookline Residential real estate brokers - Julie Bell (Hammond Residential RE), Lisa Berger (William Raveis), Barbara Favermann (Chobee Hoy Assoc.), and Sheila White (Hammond Residential RE) - (January 11, 2012); and Mr. William (Bill) McQuillan, Residential real estate developer Boylston Properties (February 15, 2012).

A working draft report of the information reviewed and discussions held during the previous meetings is currently under development. Members continue to provide observations and suggestions as this draft is very much a "work in progress".

The Committee has obtained data from a number of sources. With the assistance of the Brookline Assessor's Office, we compiled Town-wide data on the number of new multi-family units and new parking spaces built in different areas of Town and by different time periods. Nonetheless, the Committee members have struggled with the difficulty of assessing the adequacy of existing Town-wide parking resources, the supply

of and demand for parking resources, and the number of registered vehicles per address and per dwelling unit. To better understand the residential parking needs of the Town's residents, and the extent to which current parking options address those needs, the Committee approached Pat Ward, Brookline's Town Clerk, about the possibility of enclosing a questionnaire with the mailing of the annual Town census in early 2012. Mr. Ward was receptive to the idea, and we are grateful for his assistance in managing the logistics of this undertaking.

The Town-wide distribution of the questionnaire with the annual Town census presented a unique opportunity to the Committee to poll Town residents about a variety of parking-related issues and to ask a few additional questions. The one-page questionnaire (see attached) was developed with Gary J. McCabe, Brookline Town Assessor for whose assistance we are very appreciative. Currently, it is estimated that between 13,000 and 14,000 responses have been returned to Town Hall, with the responses awaiting data entry and analysis. The Committee is examining several alternative methods for tabulating the individual responses and for developing summary statistics. We are also exploring the possibility of getting both financial aid and additional human resources from the Town to take on this considerable task.

**Committee Members:**

**Lee L. Selwyn**
Committee Chairperson
Town Meeting Member, Pct 13
Brookline Advisory Committee

**Jonathan E. Simpson**
Committee Vice-Chairperson
Brookline Planning Board

**Gustaaf C.M. Driessen**
Committee Secretary
Brookline Transportation Board

**Kenneth M. Goldstein**
Board of Selectmen

**Benjamin Birnbaum**
Town Meeting Member, Pct 9
Resigned from Committee 3/8/11

**Jane Gould**
Citizen at Large
Resigned from Committee Summer 2011

**Angela E. Insinger**
Citizen at Large

**Alisa Jonas**
Town Meeting Member, Pct 16

**A. Joseph Ross**
Citizen at Large

**Benjamin M. Stern**
Town Meeting Member, Pct 10

# JANUARY 2012 BROOKLINE RESIDENTIAL PARKING REQUIREMENTS SURVEY

PLEASE RETURN IN THE ENVELOPE WITH YOUR ANNUAL TOWN CENSUS FORM

The Brookline Town Meeting Moderator's Committee on Parking is studying the adequacy of off-street parking for Town residents. We would appreciate your response to the following brief questionnaire. Responses will be tabulated and used to develop recommendations for the Town's residential parking requirements. All responses are anonymous. *Thank you!*

Please place an "X" at the most applicable answer to each of the following questions:

**1.** Do you reside in:

☐ A single family house ☐ A two/three family house ☐ A multi-family building

**2.** Do you own or rent your residence?

☐ Own ☐ Rent

**3.** How many bedrooms in your residence?

☐ Studio ☐ One bedroom ☐ Two bedrooms ☐ Three or more bedrooms

**4.** How many members of your household drive?

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 or more

**5.** How many cars are owned by members of your household?

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 or more

**6.** How adequate is the availability of parking at your residence for your household's needs?

☐ Inadequate ☐ Adequate ☐ More than needed

**7.** If you live in a two/three family house or multi-family building, how many cars is your household allowed to park on the property?

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 or more

**8.** How many parking spaces do you rent at another location because your residence lacks sufficient parking?

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 or more

**9.** How many parking spaces do you personally rent out to others who do not live in your residence?

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 or more

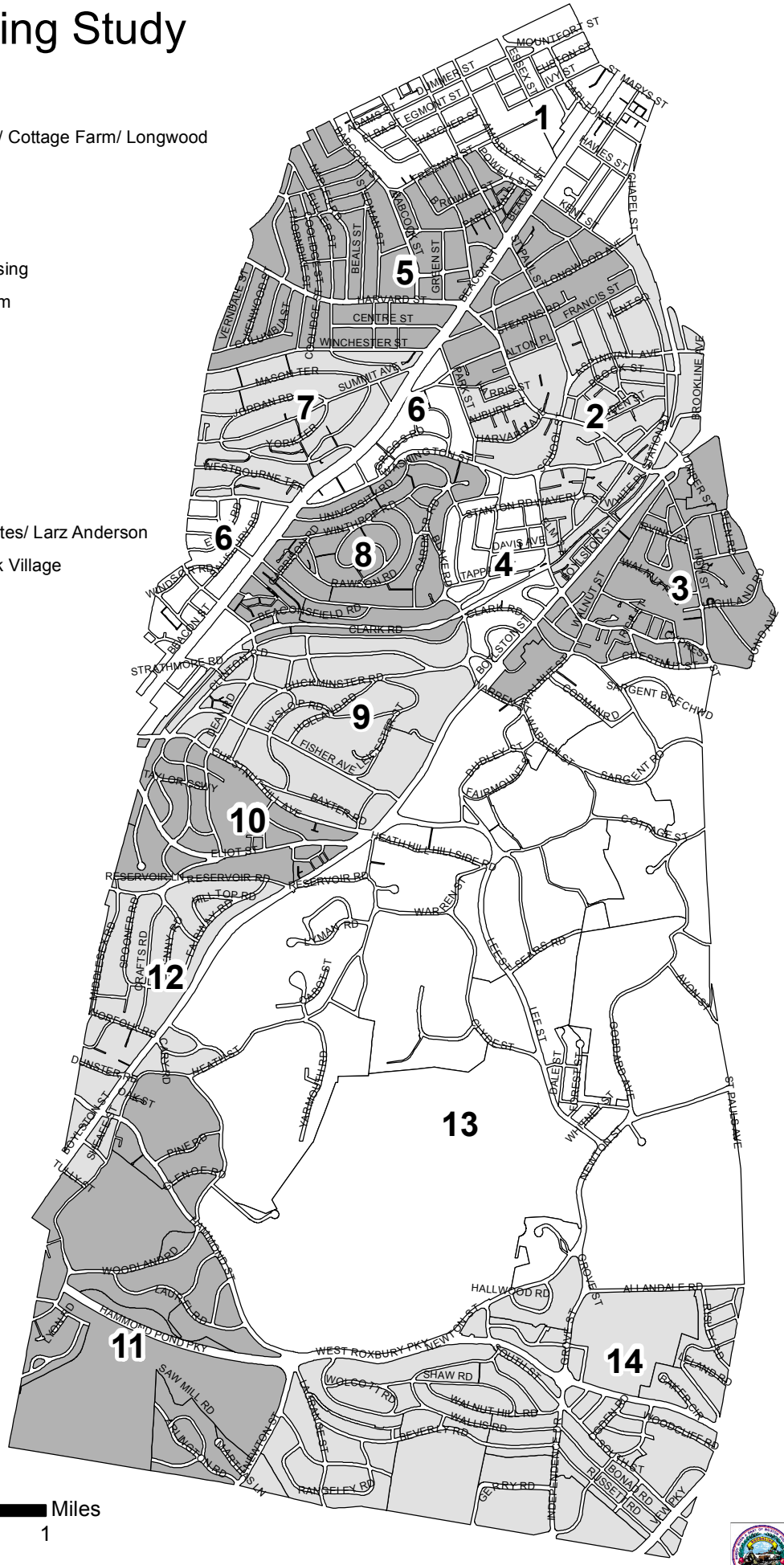
**10.** Are you a member of Zipcar or similar car-share service?

☐ Yes ☐ No

**11.** Using the map on the reverse side of this sheet, please place an "X" in the box to the left of the neighborhood that best describes the location of your residence:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| ☐ | **1** BU/Comm. Ave. / St. Mary's / Cottage Farm / Longwood | ☐ | **2** Brookline Village | ☐ | **3** Pill Hill / Whiskey Point | ☐ | **4** Brookline Hills / High School |
| ☐ | **5** Coolidge Corner / JFK Crossing | ☐ | **6** Washington Sq. / Corey Farm | ☐ | **7** Corey Hill | ☐ | **8** Aspinwall Hill |
| ☐ | **9** Fisher Hill | ☐ | **10** Heath School / Eliot St. | ☐ | **11** Hammond St. / Woodland Rd. | ☐ | **12** Chestnut Hill |
| ☐ | **13** Country Club / Sargent Estates / Larz Anderson | | | ☐ | **14** Putterham Circle / Hancock Village | | |

# Brookline Parking Study

## Legend

1) BU-Comm. Ave./ St. Mary's/ Cottage Farm/ Longwood
2) Brookline Village
3) Pill Hill/ Whiskey Point
4) Brookline Hills/ High School
5) Coolidge Corner/ JFK Crossing
6) Washington Sq./ Corey Farm
7) Corey Hill
8) Aspinwall Hill
9) Fisher Hill
10) Heath School/ Eliot St.
11) Hammond St./ Woodland
12) Chestnut Hill
13) Country Club-SargentEstates/ Larz Anderson
14) Putterham Circle/ Hancock Village