



**WARRANT ARTICLE EXPLANATIONS
FILED BY PETITIONERS FOR THE
NOVEMBER 13, 2012 SPECIAL TOWN MEETING**

ARTICLE 1

Submitted by: Board of Selectmen

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

ARTICLE 2

Submitted by: Human Resources

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

ARTICLE 3

Submitted by: Board of Selectmen

This article is inserted in the Warrant for any Town Meeting when budget amendments for the current fiscal year are required. For FY2013, the warrant article is necessary to reallocate funding based upon more favorable State Aid, Group Health Insurance, and Group Life Insurance amounts. A total of \$797,005 will be reallocated to the School budget, Pension fund, and DPW Transportation Division. In addition, the Article will seek funding for the Feasibility/Schematic Design phase of the Devotion School project (a portion of which is to be funded by the Massachusetts School Building Authority), and potentially seek funding to pay for new "smart" single-space parking meters. Funding for the Devotion School project is planned for from Overlay Surplus.

It should be noted that the funding for the meters may not be required; it depends on whether, through the procurement process, the vendor will take surplus multi-space meters from the Town in exchange for the new meters. If they do not, then the Town will need an appropriation to purchase the meters. The Town would then sell the surplus multi-space meters, thereby recouping the funds appropriated. Since the Warrant closes prior to the conclusion of the procurement process, the ultimate funding plan for the new single-space meters remains unclear. Therefore, it is prudent to include language for an appropriation of funds.

ARTICLE 4

Submitted by: Moderator's Committee on Public Hearings

This article is submitted by the Moderator's Committee on Public Hearings. It would amend Section 2.5.2 of Article 2.5 of the Town's By-Laws to require the Board of Selectmen and the Advisory Committee (or a subcommittee of the Advisory Committee) to hold at least one public hearing on each article included in the Warrant.

Article 9 of the May 2012 Annual Town Meeting would have required all Town committees to hold at least one public hearing prior to taking a vote on any article included in the Warrant. Town Meeting voted to refer Article 9 to a Moderator's Committee and asked that the Committee report before the November 2012 Town Meeting.

The Moderator appointed Harry Friedman, Helen Herman, Donna Kalikow, Richard Leary, and Sean Lynn-Jones to the Moderator's Committee on Public Hearings. The Committee held multiple meetings and one public hearing. It also received many written comments from Brookline residents and members of various Town Committees.

The Moderator's Committee voted 5-0 to recommend this By-Law amendment at its meeting on September 12, 2012.

The Moderator's Committee will include other recommendations in its final report, but this article is the only recommendation for a By-Law amendment and the only recommendation that takes the form of an article to be included in the Warrant. The other recommendations are enumerated at the end of this explanation.

The Rationale for this Article

The Moderator's Committee concluded that a By-Law requiring at least one public hearing before voting on a Warrant article should apply to the Board of Selectmen and the Advisory Committee, for the following reasons.

First, the Committee recognized that public hearings can provide valuable information during the consideration of Warrant articles. Members of the public who are not Town Meeting Members rarely address Town Meeting, so the consideration of Warrant articles by the Selectmen and Advisory Committee prior to Town Meeting is an important opportunity for public input.

Second, for many years it has been the practice of the Board of Selectmen and the Advisory Committee (or a subcommittee of the Advisory Committee) to hold one or more public hearings on articles that have been placed on the Warrant. Amending the Town's By-Laws to require such public hearings would codify that practice and ensure that it continues.

Third, the Board of Selectmen and the Advisory Committee present the overwhelming majority of written reports to Town Meeting. They are already required by By-Law to make recommendations to Town Meeting. They are thus in a different category than the other committees that sometimes make recommendations to Town Meeting.

The amendment is to Section 2.5.2, because that is where the By-Law addresses the Combined Reports, and such hearings have traditionally been part of the process of preparing the recommendations of the Selectmen and the Advisory Committee for the Combined Reports.

The By-Law amendment would allow the Advisory Committee to satisfy the requirement of a public hearing by having one of its subcommittees hold a public hearing. This provision recognizes that the practice of the Advisory Committee has been to have its subcommittees hold public hearings on Warrant articles. Given the size of the Advisory Committee (20–30 members), subcommittee hearings generally offer a more effective forum for interaction between the public and members of the Advisory Committee. The Moderator’s Committee did not think the same logic applies to the Board of Selectmen, which has only five members and has traditionally not divided into subcommittees to hold public hearings.

The amendment does not include a definition of “public hearing.” After consulting with Town Counsel, the Moderator’s Committee realized that such a definition was unnecessary: the defining feature of a public hearing is that all members of the public in attendance are given an opportunity to speak. The precise format and procedure may vary. Town Counsel can provide guidelines and advice to Town Committees.

Public Hearings by Other Town Committees

Although the Moderator’s Committee is recommending a By-Law that only requires the Selectmen and the Advisory Committee to hold public hearings on Warrant articles, the Committee recognizes that it would be valuable for other committees to hold public hearings. Such hearings can provide important information and holding them reaffirms the very important democratic principle that the public’s input matters. The elected and appointed officials of the Town of Brookline should make it clear that public input is welcome and encouraged.

The Moderator’s Committee concluded, however, that Town committees other than the Selectmen and Advisory Committee should not be required by By-Law to hold public hearings before taking a vote on a Warrant article. As noted above, the Selectmen and Advisory Committee make the overwhelming majority of recommendations to Town Meeting. Instead of a By-Law, a standing policy could require other Town committees to hold public hearings before taking a vote on a Warrant article. A standing policy could be changed more rapidly than a By-Law and this flexibility may prove useful if some Town committees can persuasively demonstrate that it is not always appropriate to hold a public hearing on a Warrant article. (Members of several committees, including the Advisory Council on Public Health and the Human Resources Board made such arguments to the Moderator’s Committee.) Many such standing policies and practices currently operate successfully in Brookline. For example, the practice of notifying a petitioner when the Board of Selectmen plans to consider his or her Warrant article was established by an August 30, 2006, memorandum of the Town Administrator, not by By-Law.

The Moderator’s Committee therefore recommends that the Selectmen adopt a standing policy that would require committees that they appoint to hold at least one public hearing prior to taking a vote on any article included in the Warrant. Such a policy might take the following form:

Standing Policy of the Board of Selectmen with respect to
Public Hearings on Warrant Articles

Before taking a vote expressing an opinion or recommendation on any article included in the Warrant for any Town Meeting, the Board of Selectmen and any of the Boards, Committees or Commissions as defined in Section 1.1.4 of the Town's General By-Laws, that are appointed by the Board of Selectmen, shall hold at least one non-adjudicatory public hearing on the subject matter. Notice of the hearing shall be satisfied by including it as a public hearing under the requirements of the Open Meeting Law, G.L.c.30A, §18 et seq. Town Counsel shall issue general guidelines for the conduct of such hearings. Any Board, Commission, or Committee unfamiliar with conducting a public hearing should consult with Town Counsel.

The failure to comply with this policy shall not affect the legality of any Town Meeting action.

The Moderator's Committee recommends that other appointing authorities, including the Moderator, and elected committees adopt similar standing policies.

If the use of standing policies to encourage Town committees to hold public hearings on Warrant articles turns out to be problematic, Town Meeting could revisit the issue and consider amending the Town By-Law to require additional Town committees to hold public hearings.

Other Recommendations of the Moderator's Committee

The report of the Moderator's Committee on Public Hearings will include other recommendations, none of which take the form of a Warrant article or By-Law amendment. For example, because there is some confusion and uncertainty about what a public hearing entails, the Committee recommends that Town Counsel offer guidelines for conducting public hearing as part of the mandatory educational training for all elected and appointed officials.

The Moderator's Committee also recommends that the Town website include user-friendly information on the schedule of public hearings for all articles included in the Warrant, so that citizens are easily able to find a list of all such hearings and, if possible, actions taken on each article.

ARTICLE 5

Submitted by: Regina Frawley and Jonathan Davis

This is a "Good Government" Article requiring Town Committees to hold at least one Public Hearing prior to voting on any proposed Warrant Article. The United States' Constitution gives the people the **right to petition the government**—in this case on proposed Articles intended for Town Meeting which are "deliberated" by Town Committees. This Article will ensure that the most basic "grassroots" level of government, the people of Brookline, will have the right to be heard by its elected and appointed Town government.

Town Counsel has defined "**Public Hearing**" as an opportunity for interested persons to appear to express their views, and/or to submit their views in writing to a Committee on a matter which will be considered at a "Public Meeting".

Massachusetts General Laws references “Public Hearings” but never defines them, leaving such procedural rules and regulations to individual Committees.

A “**Public Meeting**” is not the same as a Public Hearing, and does not necessarily require a “Public Hearing” before taking a vote or discussing any matter. Thus, this Article only refers to at least one Public Hearing considered by a Committee prior to its taking its first or only vote.

A “Public Hearing” is also not a discretionary “**public comment period**”, which often is allowed only when time or inclination allows, and which has no reference in law, and is exclusively the prerogative of a chair.

“Public Hearings” are subject to “Guidelines”, and are not subject to filibustering. Guidelines may promulgate time-limits, require sign-in, or “no repetitive comments”, etc. and many States and communities have excellent Guidelines which the petitioners have submitted to the Selectmen.

Public Hearings are not intended to impair the function of government, but implement its decision-making by providing a required noticing and opportunity for a Committee’s “hearing” of the public’s views prior to voting on a Warrant Article.

This Article refers to “**non-adjudicatory**” public hearings, as opposed to “**adjudicatory**” public hearings, which are already mandated by law (e.g. Zoning Board of Appeals and Planning Board’s consideration of a zoning By-Law proposal, and victualler’s and liquor licenses which must be noticed in a newspaper to give abutters *et al* a chance to be heard.)

“Non-adjudicatory” covers only those Articles which are otherwise exempt from Public Hearings, and which would **require no more notification than any Public Meeting requires, forty-eight hours**. In simple terms, the words “Public Hearing” are all that is needed, typed on a Warrant Article item, on any regular meeting agenda, 48-hours prior to the hearing to comply with this Article: Exactly as currently required by state and town by-laws!

This Article arose from a publicly-stated **policy** by the newly-elected Board of Selectmen Chair that the BOS would “not hold Public Hearings on Warrant Article”. The Chair subsequently upheld her view that, “there is no legal requirement to hold public hearings on Warrant Articles, and a Chair has the prerogative to enunciate a policy not to hold public hearings.”

Subsequently, when other Committees also began holding arbitrary “Public Comment” periods rather than the long-held tradition of “Public Hearings”, the petitioners perceived a significant decline in the customary democratic process, and the threat of further decline. The public who took the time to attend a meeting where they had expected to speak on a Warrant Article they believed would affect their area, expressed their discouragement when they were told they would not be allowed to speak. “Why bother to come if no one wants to hear what we think?” Why, indeed.

After considerable consultation with Town officials willing to collaborate, and after intensive research of other communities' practices, policies and by-laws, the petitioners decided to submit a Warrant Article requiring Committees to hold at least one Public Hearing on an Article, prior to taking a vote or making a recommendation on said Article. After a Public Hearing on Article 9, the petitioners themselves "heard" the public's suggestions and modified Article 9 prior to Town Meeting, illustrating the benefits of Public Hearings on Warrant Articles.

This Article is a "modest proposal", and not the cumbersome, complicated burden some have feared, or suggested.

Thus, in addressing Town officials stated concerns, please note **what this Article does not do:**

- It does not require any Committee to hold Public Hearings on every item on its agenda: ***Only on a Warrant Article it intends to deliberate and vote on.***
- This Article does not state or imply that any person attending a Public Hearing may "hold forth" without limitations of time or be allowed to "wander off-course" of the Article, or to be redundant.
- This Article does not impair Committee Chairs' prerogative to promulgate and follow Committee guidelines for conducting Public Hearings.
- This Article does not prevent Committees from ***re-considering*** an Article without further Public Hearings. Committees are free to re-consider any Article on its agenda, without further Public Hearings, however much re-consideration might benefit from further Hearings.
- This Article does not require onerous notifications or expensive newspaper Public Notices. The Open Meeting Law states "forty-eight hours" notice must be given for a Public Meeting. Any Warrant Article Public Hearing would require no more than 48 hours notice on a Committee's agenda which is already mandated by the Open Meeting Law and the Town's By-Law on electronic notification. **Nothing more than adding the words "Public Hearing" on an agenda item needs to be done to meet the Article's requirement.**
- This Article does not include the largest Committee in Brookline: The Advisory Committee, (historically referenced as "The Committee of Thirty") when the whole body meets to consider Articles, precisely because of its size, and the many meetings it holds. However, this Article does include the "subcommittees" of the Advisory Committee which historically has usually held Public Hearings in order to include the public's views in its reports to the Advisory Committee plenum. Since it was, in fact, some of the Advisory Committee subcommittees which had become careless about holding true "Public Hearings", this Article includes AC subcommittees. (The current AC Chair is already diligently requiring AC subcommittees to hold Public Hearings. However, a subsequent Chair might not be so concerned. No laws,

state, federal, requires a community's Finance Committee (the AC) to hold Public Hearings on Warrant Articles.)

- This Article does not require any Committee to hold a “special” and separate public meeting, but instead allows a Committee to incorporate a Public Hearings component in its regular, publicized agendas. (Though, according to Town Counsel, neither the Warrant Article or any reconsideration of an Article, should be considered under “Other Business”, but should be specifically noticed. However, “reconsideration of an Article need not require another Public Hearing.”)

The Petitioners are re-submitting this Article for the following reasons:

- Town Meeting voted to refer Article 9 in May to a “Moderator’s Committee” which did not conclude its meetings and hold a public deliberation and vote in time for the August 30 deadline for filing Warrant Articles. Its final meeting is not scheduled until September, and theoretically the Committee may submit an Article, if it chooses, at that time. **However, citizen-petitioners may not exceed the August 30th deadline.**
- Only one other recommendation was submitted, by a Committee member who is also on the Moderator’s Town Committee on Organization and Structure, who recommended: **An *Board of Selectmen policy (subject to change at any time) rather than a By-law requirement which would require a rigorous vetting to amend.***
- Moreover, ***no Moderator Committees such as the standing Advisory Committee and its subcommittees, ad hoc committee such as the Moderator’s Committee on Public Hearings, and the standing Town Committee on Organization and Structure (CTOS) are included in this Committee member’s proposed policy—only Selectmen’s Committees.*** Since many important votes on Articles are taken by these Committees, the petitioners feel strongly that the public’s right to be heard would be severely truncated, if not negated.
- The Moderator’s Committee Chair rightly noted that, in the one-and-a-half years interim since the BOS Chair chose to eliminate Public Hearings on Warrant Articles, the same Chair has declined to hold a Public Hearing on any Warrant Article. Further, other Selectmen have publicly and strongly opposed Public Hearings on Articles, stating with the Chair: “We don’t have to hear from the public. By the time we are ready to vote we already know all we need to know about an Article to take a position.” The petitioners believe often “the past is prelude to the future”. Past behaviors, and the absence of behaviors, are good indicators of what to expect going forward.
- Some Selectmen wish to “compromise”, not burden “expert Committee members” and, instead, have a “subcommittee of a committee” hold Public Hearings. (One new TMM, a doctor, challenged the assumption that experts

know all they need about their topics, and often, expectantly, disagree amongst themselves.)

Two years ago a Warrant Article was referred to a Selectmen's subcommittee: It consisted of one Selectman, one citizen (who had opposed the Article) and three staff, all of whom were given votes. No supporters were appointed, and nearly all meetings were held at 8 a.m., thereby preventing most working people from attending, including parents needing to get their children to school.

This example broke several traditions, including giving staff a vote, a staff that is subject to Selectmen's reviews, an uncomfortable position to place any staff in, at best. Past as prelude, once again.

The petitioners perceive these expressed Selectmen views, and behavior, along with their unanimous votes opposing Public Hearings on WAs, does not lead them to expect the kind of Public Hearing due process it otherwise is required to hold on, for example, victualler's and liquor licenses, which are held to "adjudicatory" requirements, including newspaper notices, etc. This Article does not require the same level of notification, or add any public expense.

The petitioners hope the required Public Hearings on Warrant Articles will enrich the deliberative process that all Committees are required to conduct under the Open Meeting Law, and will expose the public to the thinking and reasoning of the Committee such as to allow its own views to be influenced. Information—even one datum—may change a decision.

Democratic "due process" is essentially a dialectic: Opinions, contra-opinions, alternatives, consequences, and, it is hoped, reasonable synthesizing of views, often referred to as a "collaborative or consultative process". May's Article 9 was the product of just this kind of process. The petitioners believe May's Article 9, by whatever enumeration in November, is worthy of re-submission. Its motives, rigorous research and methodology have complied with the rigors of any responsibly proposed By-Law.

In conclusion, to quote another community's Town official: "Are you kidding me? We wouldn't think of any committee's deliberating on a Warrant Article without holding Public Hearings!" And another: "Are you trying to tell me liberal Brookline doesn't hold Public Hearings on Warrant Articles? I can't believe it."

Neither could we, until one-and-a-half years ago.

Please ensure that every constituent whose quality of life will often turn on Town Meeting's vote, has a chance to "be heard" on any Article that will come before Town Meeting, and ensure that when an important issue comes to your own neighborhood, that you and your constituents will be heard by the officials whose opinions directly affect their lives.

As Town Meeting Members, we represent the public and we, too, need to “hear” our neighbors, residents and voters. Without a By-Law requiring Public Hearings even Town Meeting Members, will have no “right to petition (our) government” during the long process of deliberating Warrant Articles, save on the floor of Town Meeting. And as May demonstrated, when no one was allowed to speak at the mike, waiting until Town Meeting to voice one’s view is risky business, indeed. Please vote for this Article. Or risk that when a vital Article might severely impact your precinct(s), you might have to “hold your peace.”

Aren’t we a bit tired of hearing the phrase “unintended consequences”, some of which might have been brought to light at a Public Hearing? Think of the RePrecincting Committee: Borders were changed when those living in the area insisted on being “heard”, challenging the well-intentioned but inappropriate configurations, some of which would have broken up a cohesive neighborhood.

As Representative Town Meeting Members, our constituents deserve better. They deserve a “voice”. They deserve to be “heard.” Tonight, we can ensure they will have that voice.

ARTICLE 6

Submitted by: Eleanor Demont, Andrew Martino, Lynda Roseman, and Kathleen O’Connell

This neighborhood, historically known as The Settlement, dates back to the 1800’s and was one of the original settlements of Irish immigrants and their children in Brookline. Many if not most of the families who originally lived in The Settlement worked as gardeners, laborers, coachmen and maids for the wealthier families whose homes surrounded the area. These original families built homes in this area so they could be closer to work. Many of the original settlers were also employed by the town of Brookline as police officers, fire fighters, and in other capacities. Several descendants of the original families still live here.

The resulting neighborhood, nestled between the more expansively scaled Fisher Hill and Chestnut Hill neighborhoods, is made up of modest single family homes with two and three family homes mixed in. The style and scale of the neighborhood is not common in Brookline. The cottage that is now #27 Ackers Ave, built around 1866 by an Irish laborer named Michael Burke, was determined to be of historic significance by the Brookline Preservation Commission and was saved from demolition in 1994.

This article’s intention is to create guidelines for measured and controlled growth and change in the Settlement neighborhood. Recent construction projects in the Settlement, much larger in mass than the surrounding houses, have raised concerns. Currently there is a request to demolish a home that was found by the Brookline Preservation Commission to be historically and architecturally significant, replacing it with a potentially much larger dwelling. Further, there are several lots throughout the neighborhood that are large enough to pose ongoing potential development pressures. This is an effort to preserve the integrity and intimate character of the neighborhood.

ARTICLE 7

Submitted by: Merelice

Many aspects of the foreclosure crisis have created serious and negative effects on the well-being of homeowners, tenants, neighborhoods, and the overall economy across the Commonwealth. To date, Federal and State provisions to solve this crisis are falling short of the need.

Every city and town that recognizes the problem and mandates solutions can build toward a community, state, and national consciousness that puts a higher priority on solving this core problem. Although Brookline itself has fared better than neighboring communities, the town can set an example -- through pre-foreclosure mortgage mediation and post-foreclosure property security and maintenance -- that could spare cities and towns from the degradation and tragedy many are facing.

Pre-foreclosure mediation has been shown to lead to a significant percentage of mutually agreed-upon loan modifications. Post-foreclosure registration and cash bonds have had a significant impact on the financial health of Worcester which enacted comparable legislation.

ARTICLE 8

Submitted by: Nancy Heller

In June, 2011, the National Institute of Environmental Health Sciences (NIEHS), part of the U.S. Dept of Health and Human Services, added styrene, the chemical found and released from polystyrene (commonly known as Styrofoam) products such as to-go containers and cups, to its list of materials that are reasonably anticipated to be carcinogens, as toxic chemicals may leach out of these products into the food that they contain. The NIEHS added styrene to its list of likely carcinogens based on human cancer studies, laboratory animal studies, and mechanistic scientific information. Styrene is found in many products, including food and beverage containers, rubber, plastics, insulation, and cigarette smoke. While this list is not a regulatory statement, it has been a factor in regulatory decision-making and could mean that the federal government will at some future date regulate or ban the use of polystyrene.

This product is not only harmful to human health but it is also detrimental to the environment. Polystyrene, a petroleum product, does not biodegrade but rather crumbles into fragments. If strewn as trash on land, it will have an indefinite life, and could break into pieces that choke and clog animal digestive systems. This product remains in landfills indefinitely, takes up more space than paper, and eventually can re-enter the environment when landfills are breached by water or mechanical forces.

While polystyrene can technically be recycled, it is cumbersome to do so. Brookline has an extensive recycling program, but single stream curbside recycling does not include polystyrene containers. About twice per year, our residents may take their collected polystyrene to the DPW facility, where it is picked up by a Rhode Island company. In Rhode Island, the polystyrene is compressed or "densified" into large

blocks, then transported to China or India where facilities using complex chemical processes turn the polystyrene into pellets that are used to make new polystyrene. In this way, polystyrene can be recycled, but the carbon footprint of transporting this material is staggering.

While this warrant article only applies to food and beverage containers in Brookline, it begins to tackle the problem at a local level and furthers the process of educating people about the dangers of polystyrene. Great Barrington, MA banned polystyrene containers 22 years ago. In Great Barrington, all to-go coffee, such as from Dunkin' Donuts, is sold in heavy paper cups.

The first such ban was enacted in Portland, Oregon in the late 1980's. In the following years, many municipalities nation-wide have either an ordinance in place or are currently working on one. Other major cities include: Los Angeles, Oakland, Santa Monica, Seattle and San Francisco. Philadelphia and New York City are currently working on getting an ordinance passed through city council. In California alone, the number of municipalities which have tackled this issue is approaching 100 and the list keeps growing. Several counties in that state have adopted county-wide bans. California is poised to become the first state in the nation to pass a state-wide ban. Many other states are also considering state-wide bans.

Anecdotally, I have observed that food from the cafeteria at the Museum of Science is no longer placed in polystyrene containers, but in containers which are biodegradable. The MacDonald chain ceased to use polystyrene packaging several years ago, and now wraps all food in paper products.

Unlike the situation in 1990 when Great Barrington enacted its ban, today there are many alternative recyclable food containers, some of which are biodegradable: such alternative containers do not contain human health risks or negative impacts on the environment. Biodegradable containers are often made from PLA, a plastic substitute derived from plant starch, from bamboo, a fast-growing and renewable resource, and palm fiber. These plastic substitutes can match polystyrene in durability, strength, and flexibility.

It makes sense for Brookline Town Meeting to protect our citizens with this bylaw. It also makes sense that in addition to any police officer, the Director of Health and Human Services and the Commissioner of D.P.W. or their designees have the authority to enforce this by-law.

For a fuller description of polystyrene, please see: <http://www.earthresource.org/campaigns/capp/capp-styrofoam.html>.

For a copy of the Great Barrington bylaw, please see Great Barrington Bylaws, Section 102.2 Polystyrene containers.

For an example of an ordinance from a California city: <http://www.cityofalamedaca.gov/Go-Green/Styrofoam-Ban>

ARTICLE 9

Submitted by: Jessica Arconti

BAN PLASTIC BAGS IN BROOKLINE

“WARNING: TO AVOID DANGER OF SUFFOCATION, KEEP THIS PLASTIC BAG AWAY FROM BABIES AND CHILDREN. DO NOT USE THIS BAG IN CRIBS, BEDS, CARRIAGES, AND PLAYPENS.”

–CVS Pharmacy plastic bag warning

To the Members of the Brookline Town Council:

As citizens of one of the most educated and informed communities in the country, it is a travesty that we have not yet put a ban on the distribution of single-use plastic bags in Brookline.

It is estimated that 300 million tons of plastic are produced each year, quite a terrifying number, considering it is 15 million tons more than the yearly amount of meat consumed worldwide.¹ Furthermore, while meat is consumed and digested, plastic is accumulating at that rate, and has a toxic degradation process that takes thousands of years. Plastic is accumulating in our trees, watersheds, rivers, oceans, ponds, and even our back yards. The only way to stop our plastic suffocation is to stop the accumulation at its source.

If a plastic mass with the square mileage of Texas floating and stretching across the Pacific Ocean is not enough to scare humanity into making changes, what will be our impetus? We cannot continue to allow the plastics industry to hide behind recycling. Recycling is simply an excuse for allowing plastic production to continue and should be considered an evasion, not a solution. It is up to small governments, not the Federal Government, who is subject to lobbying pressures and corruption, to make positive changes for our ill-fated environment.

The prosperity of humanity, society, and our economy depend on the health of our environment. Banning plastic bags in Brookline is the crucial first step in putting our community on the map as a sustainable, economical, and forward thinking township.

ARTICLE 10

Submitted by: Department of Planning and Community Development

The Planning and Community Development Department is submitting this article at the recommendation of the Zoning By-Law Committee. It will create a new use 32A (domestic household animal day care facilities). Since this use did not exist when the Table of Uses was formulated in the 1960s, and there is a growing trend to provide animal day care facilities, it should be added to the Table of Uses now.

¹ Moore, Charles, and Cassandra Phillips. *Plastic Ocean: How a Sea Captain's Chance Discovery Launched a Determined Quest to save the Oceans*. New York: Avery, 2011. Print

A warrant article addressing both a veterinarian office (Use #20A) use and a domestic animal day care use (Use #32A) was submitted to the Spring 2012 Town Meeting. At that time, the change to Use 20A, veterinarian office, to allow it in a local business district by special permit was approved. However, after further discussion by the Planning & Community Development Department, the Public Health Department, the Director of Parks and Recreation, and the Town's Animal Control officer, it was felt that more time was needed to formulate protective rules and regulations to attach to the existing kennel licensing procedures, prior to approving use 32A. As a result of those discussions, a special permit for a domestic household animal day care facility now requires a recommendation from the Director of Public Health addressing possible impacts and requires an annual license from the licensing authority, as well. Further protections, which were in the initial warrant article, have been kept requiring a study by recognized experts to ensure, 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. The annual license will require input, and inspections when necessary, from the Director of Public Health Department, the Town's Animal Control officer, and the Director of Parks and Recreation.

ARTICLE 11

Submitted by: Department of Planning and Community Development

This warrant article is being submitted by the Planning and Community Development Department at the recommendation of the Zoning By-Law Committee. It is modeled after Section 9.11 of the Brookline Zoning By-Law, Administrative Site Plan Review Requirements for Educational Uses in Residence Districts, which requires submission of information and advisory recommendations.

This administrative review for day care centers would enable the Town departments to obtain valuable information about a proposed day care center related to its operating characteristics, number of children and employees, outdoor play space, parking and drop-off/pick-up spaces. Before an applicant can receive a building permit for a day care, it is mandatory that the above information be submitted. With the Town recommendations advisory, this amendment would not conflict with MGL Chapter 40A, Section 3, which allows day care centers in all zoning districts and prohibits requiring a special permit for the use. The Planning and Community Development Department, in its experience, has found that applicants often appreciate recommendations for improvements to operations and safety. Often issues are raised that the applicant never considered. Additionally, the Health Department, which regulates day care centers; the Parks and Open Space Division, which oversees the use of the public playgrounds in Town; and the Transportation Division, which manages public parking and street circulation, will have access to this valuable information and can also make its own recommendations for improvements.

The current use table in the Brookline Zoning By-Law prohibits day care centers from locating in single family zones and requires a special permit for the use in other residential zones. The Planning and Community Development Department and Zoning By-Law Committee are aware that this also needs to be addressed,

because the state statute does not allow requiring a special permit for day care use. However, more time is needed to consider which requirements should appropriately be attached to day care use, since the state statute allows reasonable regulations related to the “bulk and height of structures, yard sizes, lot area, setbacks, open space, parking, and building coverage”. This will be addressed at a future Town Meeting.

ARTICLE 12

Submitted by: Board of Selectmen

The town-owned property at 27 Ackers Avenue is a two-story, one bedroom single family home located on Warren Playground. The ten-year lease for the property expired on November 1, 2012. General Laws Chapter 30B requires that the Town now issue a request for proposals to lease the property for another term. General Laws Chapter 40, §3 now permits the Board of Selectmen to lease town-owned property for up to thirty years. The Town intends to issue a request for proposals in accordance with c.30B by the end of the year.

ARTICLE 13

Submitted by: Board of Selectmen

The lease with the Transportation Museum for the Carriage House and adjacent property at Larz Anderson Park expired on December 31, 2011. While there was a provision in the lease to renew under the same terms and conditions, the Museum declined given their difficulty in meeting the financial aspects of those terms. In fact, the Museum has outstanding unpaid obligations from the prior lease which have been the subject of discussion with the Town. The Town and the Museum have been finalizing a resolution of these obligations. The Board of Selectmen intends to issue a revocable license for the Museum so they may continue to occupy the premises. In addition, any new lease must be competitively procured under the provisions of Chapter 30B of the Massachusetts General Laws. The Town and the Museum have reached agreement on the terms to repay the outstanding financial obligations of the lease, thus making the Museum eligible to submit a proposal for future lease of the property.

In order to enter into a new long-term lease, Town Meeting must authorize the Selectmen to do so. If approved, it is the intent of the Board of Selectmen to issue a competitive Request for Proposals for lease of the property to a Massachusetts not-for-profit corporation who will use the premises for cultural and educational purposes.

ARTICLE 14

Submitted by: Board of Selectmen

As of the submission of this warrant article, the Town has available only one unclaimed liquor license pursuant to the Town’s quota established by G.L. c. 138, § 17 (which establishes municipalities’ liquor license quotas based on their population as determined by the census). The Town is concerned that the unavailability of new licenses will detrimentally impact the economic vibrancy of

the Town by significantly reducing the likelihood of redevelopment of underutilized sites.

The petition is intended to secure additional liquor licenses for the Town in order to assure the availability of licenses for the several parcels of land within the Town expected to undergo redevelopment within the foreseeable future, namely, a parcel in Cleveland Circle formerly the site of the Circle Cinema (*see* Map 1), certain parcels in Coolidge Corner in the vicinity of Waldo St. (*see* Map 2), and certain parcels on Brookline Place in Brookline Village (*see* Map 3).

In addition, given the impending unavailability of liquor licenses, section 4 of the petition is intended to request several additional liquor licenses unrestricted by location that the Board of Selectmen could issue based upon its determination of the public need and the common good.

MAP 1



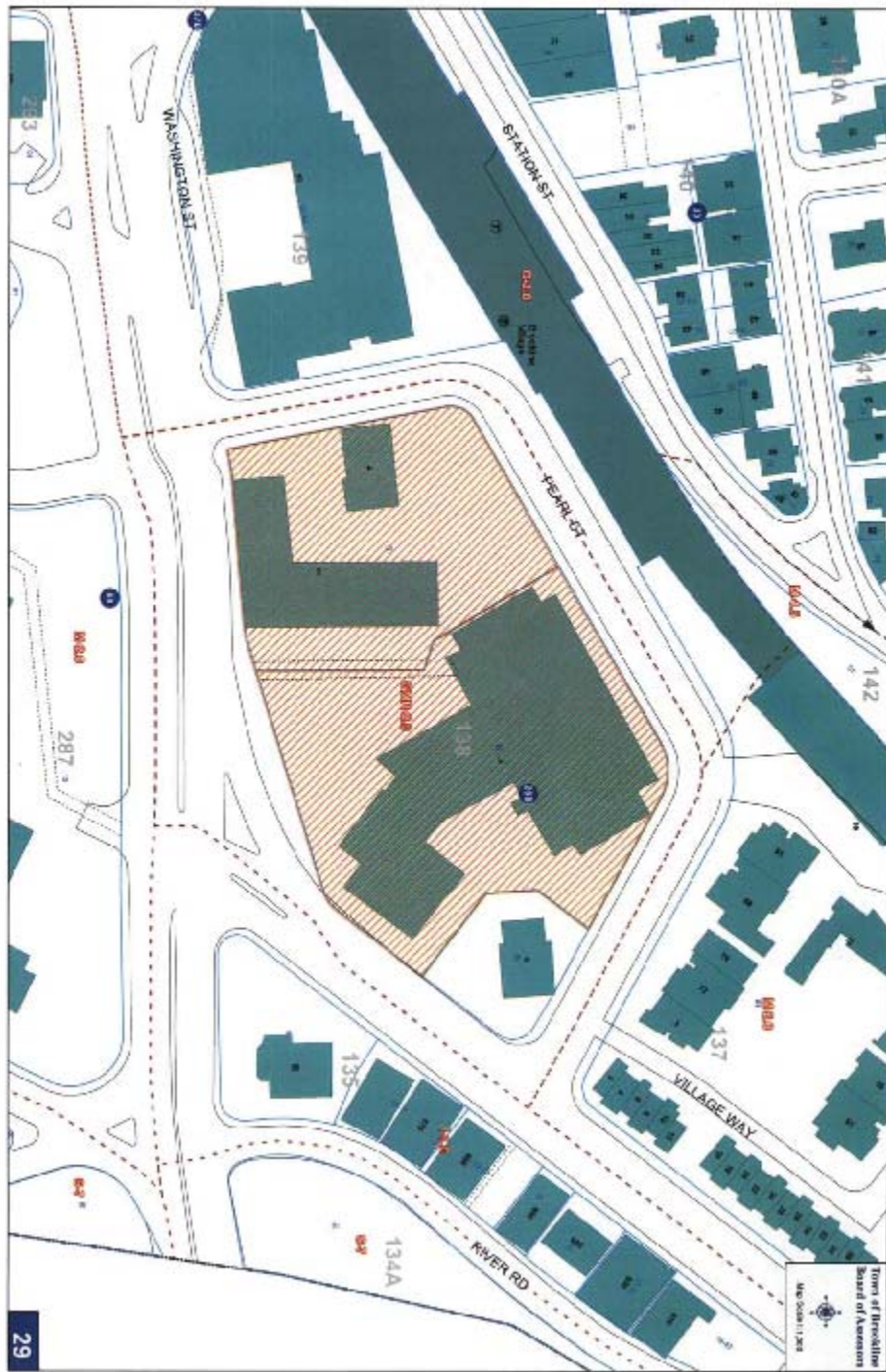
MAP 1

MAP 2



MAP 2

MAP 3



MAP 3

29

ARTICLE 15

Submitted by: Thomas Vitolo

MARKET TREND

The ability to generate electricity using solar photovoltaic (PV) panels is not a new technology. Its cost has historically been significantly higher than simply burning fossil fuels to create steam, and as a result the pace of PV installation has been snail-like. That has changed recently, for a number of apparently permanent reasons. Environmental considerations including those related to atmospheric chemistry (carbon emissions, acid rain, smog), geology (mountaintop removal mining, and hydro-fracking induced earthquakes), and hydrology (ash pond leaching, aquifer exhaustion, cooling water shortages) have stimulated a growing list of environmental regulations that have driven up the cost of fossil fuel generated electricity. Public health studies connecting the air and water pollution released by fossil fueled power plants to negative human, animal, and plant health outcomes are voluminous. Public policies such as emissions restrictions, effluent requirements, renewable portfolio standards, feed-in-tariffs, tax credits, and more continue to increase the cost of fossil fuel generated electricity and continue to provide incentives for the construction of new renewable electricity generation.

Additionally, the unsubsidized price of solar panels has fallen precipitously. The price of solar panels fell 60% between the summer of 2008 and 2011², and continue to fall³. As a result of public policies and changing energy economics, the amount of PV installed in America is growing at an enormous rate:

	United States⁴⁵	Massachusetts⁶
2007	500	4
2008	850	7
2009	1,250	17
2010	2,150	40
2011	4,000	75
2012	8,200 ⁷	168

Installed grid-tied PV installations (MW_{DC})

In both the United States and within Massachusetts, the amount of installed solar panel generation capacity has increased by a factor of ten over the past four years,

² United Nations Environment Programme and Bloomberg New Energy Finance, *Global Trends in Renewable Energy Investment 2011: Analysis of Trends and Issues in the Financing of Renewable Energy*, 2011.

³ *Solar prices drop more, pressuring panel makers*, Reuters, April 15, 2012.
http://www.msnbc.msn.com/id/47043457/ns/business-going_green/t/solar-prices-drop-more-pressuring-panel-makers/

⁴ Larry Sherwood, *U.S. Solar Market Trends, 2008 – 2012*.

⁵ IMS Research, *PV Demand Database - Quarterly – Q3'12*, August 17, 2012.

⁶ Massachusetts Department of Energy Resources, *Renewable Energy Snapshot*, August 2012.

⁷ 2012 numbers are estimates based on sales in January – June 2012 (United States) and January – July 2012 (Massachusetts).

and the amount installed per year continues to increase. The market trend is clear: PV installations are increasing in number and size every year.

POTENTIAL

While PV is effective in many places, it can't be installed everywhere. PV panels need to be installed on an even surface, preferably one that is secure from interference from people, animals, and shade. One ideal location is the roof of a building because in addition to having the aforementioned properties, it is often otherwise unused space. The Town of Brookline's buildings have a cumulative area of over 850,000 square feet -- nearly 20 acres. The entire surface isn't appropriate for PV; some if it is shaded, some is angled away from the sun, some is covered by mechanical units or other equipment, etc. Nevertheless, the Town owns a substantial amount of roof space that is appropriate for siting solar panels.

OPPORTUNISM

The solar panel market is constantly in flux. Prices, while trending downward, do fluctuate due to supply chain inefficiencies, national trade policies, and so forth. Furthermore, national, state, and even regional policies, subsidies, and grants are created, eliminated, or modified constantly. As a result, the opportunity to secure a grant or subsidy that results in a financial gain for the Town may be short lived. By having "solar ready" roofs, Brookline may be in the position to seize opportunities from which it wouldn't otherwise be prepared to benefit. A "solar ready" roof is one that has undergone solar-specific design, surveying, and preparation for a solar PV installation at a later date – it has the necessary wiring or conduits pre-installed, has been determined to be structurally capable of holding the panels, and so forth. While there is no single definition, a number of resources exist detailing the process and components.⁸⁹

FISCAL RESPONSIBILITY

Despite underfunded pension and other post-employment benefit (OPEB) obligations, it's clear that Brookline's finances are in excellent shape. The fiscal health of Brookline is a testament to the efforts of the Selectmen, a tireless Advisory Committee, and dozens of Town staff who insist on prudent spending. The prospect of making Town-owned roofs "solar ready" relates to a number of capital improvement program (CIP) evaluation criteria¹⁰, including:

- Eliminates a proven or obvious hazard to public health and safety
- 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
- Provides new programs having social, cultural, historic, environmental, economic, or aesthetic value

⁸ National Renewable Energy Lab, *Solar Ready Buildings Planning Guide*, December 2009.

⁹ City of Boston Department of Neighborhood Development, *Design, Construction, and Open Space Unit Residential Design Standards*, November 2010.

¹⁰ *Town of Brookline Capital Improvement Program (CIP) Policies*, May 4, 2004.

- Utilizes outside financing sources such as grants.

The electricity generated by PV sited on Town property would replace coal- or gas-fired generation, and the corresponding hazardous pollution. It would support greenhouse gas emission reduction goals adopted goals and objectives resolved by Town Meeting. PV generated electricity could reduce and stabilize operating costs by reducing the amount of electricity Brookline must purchase on the market. Solar panels on roofs typically prolong the lifetime of the roofing material because the PV panels absorb the impact and wear caused by the elements instead of the roofing material. Since much of the area of the Town's roofs is unutilized, PV would clearly make better use of that space. PV has environmental value. If having "solar ready" roofs makes the installation of PV possible when and where it wouldn't be otherwise, then being "solar ready" is a component of each of the CIP evaluation criteria above. Regarding the last criterion, being "solar ready" may enable Brookline to be better positioned to capitalize on outside funding sources like grants or subsidies by allowing Brookline a shorter study period before applying, or by sending a clear signal to the funders that Brookline has put some of it's own skin in the game.

ENVIRONMENTAL STEWARDSHIP

Brookline Town Meeting has a long history of including environmental considerations in spending decisions. Brookline was an early adopter of hybrid automobiles, purchasing its first two Toyota Prius vehicles in FY2002 following a warrant article passed by Town Meeting. The trend has continued, with an electric vehicle charging station located at Town Hall. In June 2003, the Board of Selectmen negotiated an electricity contract that required a portion of the generation to be renewable, the first community in the state to do so. In addition to environmentally focused resolutions focused on fuel economy, the use of green cleaning products, invasive species proliferation, and gasoline powered leaf blowers, Brookline Town Meeting voted to create the Climate Action Committee in 2008. Brookline was granted Green Community status in July 2011 in part due to legislation enacted by Town Meeting. The Board of Selectmen and the Town Meeting have a long and storied history of environmental stewardship.

CARE AND CONSIDERATION

Solar PV's market share is exploding, and Brookline municipal buildings provide many acres of rooftop suitable for PV installation. Having "solar ready" roofs allow for the opportunity of PV installations at lower cost to the Town because the Town will be in a position to act more quickly on lower PV prices or on grants and subsidies. PV installations on Town roofs meet a number of CIP evaluation criteria. PV installation is consistent with Brookline's tradition of environmental stewardship. We know that making a roof "solar ready" will add cost at the time of construction or repair of a roof, but will save the Town money should the Town install PV later. We don't know the details though – and that is why a careful study is warranted. Brookline should develop a policy on "solar ready" municipal roofs, but only after developing a more complete understanding of the costs, avoided costs, benefits gained, and benefits foregone. This resolution will ensure that Brookline can pursue a solar PV strategy that is in harmony with both our financial and environmental goals.

ARTICLE 16

Submitted by: Patricia Connors and Cornelia van der Ziel

The WHEREAS clauses speak for themselves and provide a complete explanation for the RESOLVED clauses.

SOURCES for WHEREAS clauses

the federal deficit is projected:

<http://www.nytimes.com/2012/07/21/us/politics/in-black-liquor-a-cautionary-tale-for-deficit-reduction.html>

U.S. military spending: <http://www.usatoday.com/news/opinion/story/2012-08-02/defense-spending-budget-Pentagon/56721082/1>

Congress has appropriated: costofwar.com

more than for World War II: <http://www.fas.org/sgp/crs/natsec/RS22926.pdf>

most of it borrowed: costsofwar.org

according to the National Priorities Project, the taxpayers: costofwar.com

U.S. troops, including those from Brookline:

<http://www.brooklinepatch.com/articles/veteran-s-day-welcome-home-farewell-and-thank-you#photo-8416089>

over 2,000 troops: <http://www.nytimes.com/2012/07/21/us/us-military-deaths-in-afghanistan.html>; <http://www.defense.gov/news/casualty/pdf>

thousands of civilians: costsofwar.org

since 2001, more U.S. soldiers: Time Magazine, July 23, 2012, at 22

a majority of Americans:

<http://www.nytimes.com/2012/03/27/world/asia/support-for-afghan-war-falls-in-us-poll-finds.html>

the US-led NATO military coalition: The Boston Globe, Aug. 1, 2012, at A5

under a July, 2012 agreement: The Boston Globe, Aug. 1, 2012, at A5, col. 6

the “Enduring Strategic Partnership Agreement,”:

<http://www.whitehouse.gov/sites/default/files/2012.06.01u.s.-afghanistanspassignedtext.pdf>

the U.S. government has spent:

<http://www.nytimes.com/aponline/2012/08/17/world/asia/ap-as-afghanistan.html?pagewanted=1&r=1&partner=rss&emc=rss>

attacks by Afghans on the NATO troops:

<http://washingtontimes.com/news/2012/aug/17/another-afghan-police-attack-kills-2-us-troops/print/>

ARTICLE 17

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