

MODERATOR

Edward N. Gadsby, Jr.

ADVISORY COMMITTEE

Nancy Daly, Chair, 161 Rawson Road.....	232-0728
Harry K. Bohrs, Vice Chair, 97 Toxteth Street.....	566-3556
Carla Wyman Benka, 26 Circuit Road.....	277-6102
Michael Berger, 112 Wolcott Road.....	734-6139
Acheson H. Callaghan, Jr., 258 Walnut Street.....	731-4737
Kenneth W. Chin, 200 St. Paul Street #3.....	739-2519
Robert H. DeVries, 18 Acron Road.....	731-8595
L. Branch Harding IV, 145 Woodland Road.....	738-0716
Gerard J. Hayes, 49 Gorham Road.....	277-0002
Sytske V. Humphrey, 46 Gardner Road.....	277-1493
Estelle Katz, 41 Park Street.....	566-3457
Frederick Lebow, 71 Colchester Street.....	739-1930
Roger R. Lipson, 622 Chestnut Hill Avenue.....	232-0408
Pamela Lodish, 195 Fisher Avenue.....	566-5533
Shaari S. Mittel, 309 Buckminster Road.....	277-0043
Sergio Modigliani, 134 Salisbury Road.....	735-9197
Charles Moo, 1853 Beacon Street.....	232-8796
William B. Powell, 16 Columbia Street.....	731-0013
Stanley L. Spiegel, 39 Stetson Street.....	739-0448
Ronny M. Sydney, 1443 Beacon Street.....	232-8986
Leonard A. Weiss, 46 Hawthorn Road.....	277-8403
Karen Wenc, 84 Summit Avenue.....	232-4983
Neil Wishinsky, 20 Henry Street.....	739-0181
Robin E. Coyne, Budget Analyst, Town Hall.....	730-2115

MAY 28, 2002

ANNUAL TOWN MEETING

INDEX

ARTICLE NO

TITLE

1. Appointment of Measurers of Wood and Bark. (Selectmen)
2. Annual Authorization of Compensating Balance Agreements. (Treasurer/Collector)
3. Report on the Close-out of Special Appropriations. (Selectmen)
4. Approval of Unpaid Bills of a Prior Fiscal Year. (Selectmen)
5. Acceptance of Legislation to Increase Property Tax Exemptions. (Assessors)
6. Authorize the Commissioner of Public Works to Establish, under General Laws, Chapter 44, Section 53E ½, a Sidewalk Revolving Fund. (Department of Public Works)
7. FY2002 Budget Amendments. (Selectmen)
8. Legislation Amending Ch. 25 of the Acts of 1993 -- Finance Department. (Selectmen)
9. Annual Appropriations Article. (Selectmen)
10. Zoning By-Law Restructuring. (Planning and Community Development)
11. To Amend the Restructured Zoning By-Law by Adding to Section 6.04, Design of All Off-Street Parking Facilities, a New Subsection, paragraph 2, subparagraph g. Handicapped Accessible Parking Requirements. (Planning and Community Development)
12. Amendment to the Restructured Zoning By-Law, Section 4.07, Table of Use Regulations - Health and Fitness Club Use. (Planning and Community Development)
13. To Adopt a Resolution that the Zoning By-Law Commission Investigate the Issue of "Mansionization". (Petition of Jonathan Snell-St. Clair)
14. Amendment to the Restructured Zoning By-Law, Section 4.08, Affordable Housing Requirements, and to Section 5.09, Design Review. (Planning and Community Development)

15. Amendment to the Restructured Zoning By-Law 4.08(3)(e) 1) Applicability of Regulations -- Alignment of Inclusionary Zoning with State Standards for Low- and Moderate-income. (Petition of Craig Bolon)
16. Amendment to Article 5.6 of Town By-Laws, Preservation Commission and Historic Districts By-Law -- Establishment of a St. Aidan's Historic District. (Preservation Commission)
17. Amendment to Section 5.3.12 of Town By-Laws, Notice -- Notice of demolition. (Petition of Richard Calmas)
18. To Change the Name of the Land Now Known as St. Mark's Park to Judge Henry P. Crowley Park. (Petition of Linda Dean, Frank Smizik, and Seymour Ziskend)
19. Legislation Changing the Percentage of the Total Tax Levy Imposed on any Class of Real and Personal Property and Providing a Tax Exemption for Certain Small Businesses in the Town of Brookline. (Petition of Stanley Spiegel)
20. Legislation Concerning the Sale of Alcoholic Beverages in the Town of Brookline on Sundays. (Petition of Fred Lebow)
21. Legislation Authorizing the Town of Brookline to Lease Certain Town-Owned Properties for Twenty-Five Years. (Selectmen)
22. Renewal of Lease Agreements for Town-Owned Rental Properties. (Selectmen)
23. Acceptance of Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, Otherwise Known as the Massachusetts Community Preservation Act. (Petition of Jay Gonzalez)
24. Appropriation of Funds for the Removal of the Carlton Street Footbridge. (Petition of John Schemmer)
25. Appropriation of Funds for the Reconstruction and Repair of the Carlton Street Footbridge. (Petition of Cathleen Cavell)
26. Amendment to Article 2.5.2 of Town By-Laws, Combined Reports – Inclusion of a Roll-Call Vote for each Warrant Article. (Petition of A. Joseph Ross)
27. To Establish the Putterham Meadows Golf Course Enterprise Commission. (Petition of Steven Ladoulis)
28. Reports of Town Officers and Committees. (Selectmen)
 - Tree Replacement Ordinance
 - Community Electricity Franchising

2002 ANNUAL TOWN MEETING WARRANT REPORT

The Board of Selectmen and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2002 Annual Town Meeting to be held on Tuesday, May 28, 2002 at 7:00 p.m.

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

ARTICLE 1

FIRST ARTICLE

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

SELECTMEN'S RECOMMENDATION

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0, on the following vote:

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

ROLL CALL VOTE:

Favorable Action

- Kalikow
- Geller
- Hoy
- Allen

ADVISORY COMMITTEE'S RECOMMENDATION

DISCUSSION

This is the traditional Article 1. It costs the town nothing, and there was no opposition.

RECOMMENDATION

The Advisory Committee, by a nearly unanimous vote, recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

ARTICLE 2

SECOND ARTICLE

To see if the Town will authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2003 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

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 FY2003 budget to pay for these services directly and the Treasurer does not anticipate using this procedure at this time. 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 4-0, 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 FY2003 in accordance with General Laws Chapter 44, Section 53F.

ROLL CALL VOTE:

Favorable Action

- Kalikow
- Geller
- Hoy
- Allen

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Under a 1986 state law, Town Treasurers may not enter into a compensating balance agreement without an annual authorization from Town Meeting. Under a compensating balance agreement,

the Town receives no-fee banking services in exchange for agreeing to maintain a specified level of deposits in an interest-free account.

DISCUSSION

To date, the Treasurer has not used this authority, finding it more advantageous to place Town funds in interest bearing accounts and negotiate service fees with the banks. The Treasurer has no specific plans to enter into any compensating balance agreements, but would like the flexibility to do so if conditions warrant.

RECOMMENDATION

The Advisory Committee by a unanimous vote recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

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ARTICLE 3

THIRD ARTICLE

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

SELECTMEN'S RECOMMENDATION

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. No such action is proposed for the Town Meeting.

The Selectmen recommend NO ACTION by a vote of 4-0.

ROLL CALL VOTE:

No Action

Kalikow

Geller

Hoy

Allen

ADVISORY COMMITTEE'S RECOMMENDATION

RECOMMENDATION

Town Meeting is not being asked to take any action with regard to this list of appropriations to be closed out, which is presented for informational purposes only.

Accordingly, the Advisory Committee unanimously recommends NO ACTION.

ARTICLE 4

FOURTH ARTICLE

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

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. The unpaid bills submitted for approval, totaling \$3,109.08, are for hospital services for firefighters dating back to 1999. The bills were inadvertently sent to the City of Boston, along with bills for Boston police officers, and were just recently received by the Town.

The Board has reviewed the following bills and verified that they are valid obligations of the Town:

- | | |
|--|------------|
| 1. New England Baptist Hospital - | \$1,759.34 |
| 2. Newton Wellesley Imaging - | \$ 546.00 |
| 3. Sports and Physical Therapy (Wellesley) - | \$ 600.00 |
| 4. Metrowest Medical Center (Framingham) - | \$ 163.65 |
| 5. Beth Israel Deaconess Medical Center - | \$ 40.09 |

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0, on the vote offered by the Advisory Committee.

ROLL CALL VOTE:

Favorable Action

- Kalikow
- Geller
- Hoy
- Allen

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND

This article is submitted annually to cover any unpaid bills from prior fiscal years. 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.

DISCUSSION

The Town is responsible for medical bills of firefighters injured in the line of duty. Such payments are paid out of the Fire Department budget. A number of medical service providers sent the medical bills by mistake to the Boston Police Department where they languished for some period of time. By the time the Boston Police Department forwarded the bills to the Brookline Fire Department, it was a new fiscal year and the authority to pay the bills expired. Some of these bills are quite old; going back to 1997, but the Advisory Committee has determined that each of these bills is legitimate. The amounts to be paid are as follows:

New England Baptist Hospital	\$1,759.34
Newton Wellesley Imaging	546.00
Sports & Physical Therapy Wellesley	600.00
MetroWest Medical Center	163.65
Beth Israel Deaconess Medical Center	<u>40.09</u>
Total	\$3,109.08

RECOMMENDATION

The Town is responsible for these bills and needs this warrant article to provide the legal authority to meet its obligations. The Advisory Committee by a unanimous vote recommends FAVORABLE ACTION on the following vote:

To authorize the payment of the following unpaid bills of previous fiscal years from the FY2002 Fire budget:

New England Baptist Hospital	\$1,759.34
Newton Wellesley Imaging	546.00
Sports & Physical Therapy Wellesley	600.00
MetroWest Medical Center	163.65
Beth Israel Deaconess Medical Center	40.09

ARTICLE 5

FIFTH ARTICLE

To see if the town will elect to establish an additional property tax exemption for fiscal year 2003 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.

SELECTMEN'S RECOMMENDATION

This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, the elderly, the blind, and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY89. The estimated cost is approximately \$56,057 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:

<u>Description</u>	<u>Clause</u>	<u>Current Amount of Taxes Exempted</u>	<u>Proposed Amount of Taxes Exempted</u>
Surviving Spouse	17D	\$175	\$350
Veteran (10% Disability)	22	\$250	\$500
Veteran (loss of one hand, foot or eye)	22A	\$425	\$850
Veteran (loss of two hands, feet or eyes)	22B	\$775	\$1,550
Veteran (special housing)	22C	\$950	\$1,900
Veteran (certain widows of soldiers)	22D	\$250	\$ 500
Veteran (100% disability, cannot work)	22E	\$600	\$1,200
Blind	37A	\$500	\$1,000
Elderly	41C	\$500	\$1,000

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0, on the following vote:

VOTED: That the town elect to establish an additional property tax exemption for fiscal year 2003 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.

ROLL CALL VOTE:

Favorable Action

Kalikow
 Geller
 Hoy
 Allen

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND

This Article would allow the Town to continue its current practice of increasing state-mandated property tax exemptions for several classes of taxpayers, including veterans with a 10% or greater disability, surviving spouses, blind taxpayers, and low-income elderly taxpayers. The town is required to give these taxpayers a basic exemption whose amount is specified in state law and which is partially reimbursed by the state. The Town also has the option to increase these exemptions by any amount up to 100%. The increase must be uniform across all the exemptions, and the increased exemption may not decrease an individual taxpayer’s liability below the previous year’s amount.

DISCUSSION

The proposed increases, tabulated below, require annual authorization and have been approved by Town Meeting each year since FY1989. The Assessor estimates that the cost for FY2003 will be a little over \$56,000 and has already built a reserve for this purpose in the FY2003 tax abatement overlay account.

Description	Clause	Base Amount (\$)	Proposed Amount (\$)
Surviving Spouse	17D	175	350
Veteran (10% disability)	22	250	500
Veteran (loss of one hand, foot or eye)	22A	425	850
Veteran (loss of two hands, feet or eyes)	22B	775	1550

Veteran (special housing)	22C	950	1,900
Veteran (certain widows of soldiers)	22C	250	500
Veteran (100% disability, cannot work)	22E	600	1,200
Blind	37E	500	1,000
Elderly	41C	500	1,000

RECOMMENDATION

The Advisory Committee, by a unanimous vote, recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

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ARTICLE 6

SIXTH ARTICLE

To see if the Town will authorize the Commissioner of Public Works to establish, under General Laws, Chapter 44, Section 53E ½, A.) a Revolving Fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of: 1. sidewalks and walkways, both along public and private streets and ways, 2. private ways and 3. areas to which the public has the right of access; B.) funded by appropriation and by the funds received from betterments assessed for such improvements; C.) with expenditures from the Revolving Fund to be authorized by the Commissioner of Public Works, with the written approval of the Board of Selectmen; and D.) with the annual total expenditures from the Revolving Fund not to exceed \$400,000 in any fiscal year.;

or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

In December, 2000, an analysis of the condition of the Town's sidewalks was completed, which identified a need for an infusion of funds for the purpose of improving the conditions of deteriorating sidewalks. The Board of Selectmen responded to this study with a three-tiered approach that committed the Town to the expenditure of more than \$2 million of sidewalk repairs over the next 10 years. This sum was identified by the study as the amount needed to repair sidewalks currently in poor condition. The three tiers are:

- an appropriation in the annual operating budget of approximately \$100,000;
- an appropriation in the annual capital improvement budget of approximately \$100,000; and
- the creation of a voluntary loan revolving fund for improvements homeowners wish to make that are not scheduled to be completed within the next 10 years.

The seed money (\$200,000) for the revolving fund was actually part of the FY2002 budget approved by Town Meeting in May of 2001. Article 6 creates the fund for which the money was appropriated. In addition to the seed money, the loan payments for sidewalk improvements would be deposited into the fund and re-used for future betterments.

The Selectmen recommend FAVORABLE ACTION, by a 5-0 vote, on the following vote:

VOTED: That the Town authorize the Commissioner of Public Works to establish, under General Laws, Chapter 44, Section 53E ½, A.) a Revolving Fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of: 1. sidewalks and walkways, both along public and private streets and ways, 2. private ways and 3. areas to which the public has the right of access; B.) funded by appropriation and by the funds received from betterments assessed for such improvements; C.) with expenditures from the Revolving Fund to be authorized by the Commissioner of Public Works, with the written approval of the Board of Selectmen; and D.) with the annual total expenditures from the Revolving Fund not to exceed \$400,000 in any fiscal year.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 6 authorizes the Commissioner of Public Works to establish a Sidewalk Revolving Fund. Town Meeting has previously provided seed money of \$200,000 for this purpose. This money provides funds for homeowners to upgrade their sidewalks if they want them rehabilitated prior to the time they will receive attention under the regular DPW schedule or if they want them done in higher quality material than DPW would otherwise use. Any person requesting early sidewalk work or an upgrade from asphalt to concrete can pay the town back over a five-year period with a nominal interest payment.

DISCUSSION

All sidewalks are graded using the Sidewalk Construction, Replacement and Maintenance Policy generated by the town. However, if property owners want to improve their sidewalk prior to the town's normal maintenance schedule, they can do the work themselves or have the town repair the sidewalk, but at the owner's expense. However, the contractor must be licensed and have a sidewalk bond. The town should be more competitive in terms of price for sidewalk repair than a property owner's contractor. If the town or the property owner does the repair, the property owner can get a loan from the revolving fund and pay the town over a five-year period with nominal interest. The typical cost of repairing a sidewalk is around \$500-\$700.

The town currently uses \$100,000 from free cash and has appropriated \$85,000 from the town's operating fund to tackle the sidewalk problem. The town hired a consultant to grade the town's sidewalks and has determined that it would take \$200,000/year for ten years to bring the worst sidewalks up to fair condition. After ten years the worst sidewalks would then be brought up to fair condition. However, after ten years the fair sidewalks would most likely degrade and would require maintenance, plus repairing the less damaged sidewalks. This would be an ongoing program. The combination of all these funds should help expedite the sidewalks' repair quicker in the town by encouraging homeowners to take on their own sidewalk repairs.

In order for this program to be successful, the Department of Public Works must advertise aggressively.

RECOMMENDATION

A substantial majority of the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

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ARTICLE 7

SEVENTH ARTICLE

To see if the Town will raise and appropriate or appropriate from available funds additional funds to the various accounts in the fiscal year 2002 budget or transfer funds between said accounts, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

The proposed amendment is directly related to the State budget, specifically the Chapter 90 program that funds local road and bridge projects. For FY's 95-99, the State authorized \$150 million statewide for this program, of which \$762,887 was received by Brookline. FY00 was the beginning of the reduction of this program, as only \$100 million was authorized statewide, meaning a decrease to \$508,591 for the Town. This figure remained constant in FY01, so \$508,591 was used as the estimate for the FY02 budget. Unfortunately, the State only authorized \$50 million statewide, resulting in a further reduction to Brookline in the amount of \$242,058.64 for FY02.

Therefore, the Selectmen recommend FAVORABLE ACTION, by a vote of 4-0, on the vote offered by the Advisory Committee.

ROLL CALL VOTE:

Favorable Action

- Kalikow
- Geller
- Hoy
- Allen

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This article is normally part of the Town Meeting Warrant to make any necessary adjustments to the current year's budget.

DISCUSSION

State funding totally supports Chapter 90 street rehabilitation. Due to a shortfall in state revenues, the funding for 2002 Chapter 90 was cut statewide from \$100 million to \$50 million. As a result, the budgeted amount for 2002 must be cut from \$508,591 to \$242,059.

RECOMMENDATION

The Advisory Committee, by a unanimous vote, recommends the following vote:

VOTED: To amend the FY2002 budget as follows:

<u>Item #</u>	<u>Voted</u> <u>5/22/01</u>	<u>Change</u>	<u>Revised</u> <u>Amount</u>
61. Street Rehabilitation (Ch. 90)	\$508,591	(\$266,532.36)	\$242,058.64

(To reflect a \$266,532.36 reduction in Chapter 90 funding)

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ARTICLE 8EIGHTH ARTICLE

To see if the town will authorize and approve the filing of a petition with the General Court in substantially the following form:

AN ACT CONCERNING THE DEPARTMENT OF FINANCE IN THE TOWN OF BROOKLINE.

Be It Enacted, etc., as follows:

Section 1. SECTION 3 in Chapter 25 of the Acts of 1993, is amended as follows:

- a. by deleting “information services” in the first sentence and by amending the first sentence to read: “The department shall assume and be responsible for the present functions and statutory duties of the offices of comptroller, treasurer/collector, purchasing and assessing.
- b. by deleting paragraph “x.” and by renumbering paragraph “xi.” to paragraph “x.”.

Section 2. Part “C.” in SECTION 4 in Chapter 25 of the Acts of 1993, is amended as follows:

- a. by deleting, at the end of the first sentence: “and the development and maintenance functions of information services.”, and by changing the “,” after the words “and treasury functions” to a “.”.
- b. by deleting, at the end of the first paragraph: “and manager of information services.”, and by deleting the “,” after the words “chief procurement officer” and by amending the remaining portion of the paragraph to read “and chief assessor.”
- c. by amending the first part of the fourth paragraph, immediately prior to item “i”, to read: “In addition to supervising and directing the effective functioning of the divisions of treasury, accounts, purchasing and assessing, the director shall have the following specific powers and duties:” and by deleting item “x” and renumbering the remaining items accordingly.

Section 3. SECTION 5. in Chapter 25 of the Acts of 1993 is amended by deleting all of part "E."

Section 4. This act shall take effect upon its passage.

or act on anything relative thereto.

CTO&S Recommendation on Article 8

The purpose of Article 8 is to provide the necessary home rule legislation to enable the creation of an Information Technology (IT) department reporting jointly to the Town Administrator and Superintendent of Schools. Normally there would be no requirement to go to the legislature to establish such an IT department. However, because Home Rule Legislation was required in 1993 when Brookline sought to change the Treasurer/Collector from an elected to an appointed position within the newly formed Finance Department, and since the language describing the duties of the Finance Department included a number of Information services functions, the 1993 Home Rule Legislation has to be amended if those functions are to be implemented outside of the Finance Department. Article 8, in essence, removes all mention of information services from the described duties of the Finance Department, freeing town government to implement those services under a centralized IT department at a level parallel to the Finance Department rather than subservient to it and equally responsible to both School and Town executive management. CTO&S recommends favorable action on this enabling legislation.

The key question to be answered in deciding whether or not to support this article is whether it makes sense to continue to provide information services as a sub-function of the Finance Department or whether that function should be elevated as a stand-alone department under a Chief Information Officer (CIO) reporting directly to the top management level of the Town and Schools. After reviewing the Information Technology Strategic Plan, prepared by Pacific Technologies, Inc. in response to the 2001 Annual Town Meeting appropriation to create such a plan, and following a number of discussions with the Town Administrator, the Finance Director, the current IT Director, School Department, members of the existing Information Technology Citizen Advisory Committee and a representative from Pacific Technologies, CTO&S believes that such a change of focus, centralization and reporting level of the IT function makes sense in today's world.

The time in which we currently live is often referred to as the information age. Indeed, the explosion of information technology and services that have occurred over the last twenty years has affected the daily lives of every one of us and will undoubtedly continue to do so in the years ahead. No less is true for the role of information services in Brookline. We have moved, over the last couple of decades, from separate "School," "Town" and "Police" mainframe computers

providing a few, relatively clumsy financial and other management functions to a variety of networked servers supporting nearly 300 PC and Macintosh desktop computers providing various Town and School administrative functions; 50 PCs serving a variety of public safety functions; 50 PCs in the Coolidge Corner and Putterham Libraries serving library users; and nearly 1700 PCs and MACs used in the schools for instructional purposes. Functions provided run the gamut of financial management; personnel management; data base management; pupil, class room and teacher scheduling; asset management; data and word processing, instructional support and many others. Brookline also maintains a web site that gives the public access to a wide variety of Brookline town government information and service functions. Compared to the situation not very many years ago when only a few daring “computer literate” employees were comfortable using the information services that were available, today most Town and School personnel are enthusiastic users of IT and full of suggestions on how to increase departmental productivity and/or citizen satisfaction through expanded and innovative uses of IT.

One might reasonably ask If this growth in usage, functionality and satisfaction has taken place under the existing structure, then why change? The answer lies in the following areas of inefficiency, all stemming one way or another from a lack of centralized expertise, planning, oversight and coordination at a high enough level to give it the visibility and stature it requires:

1. The growth has happened largely by happenstance No overall strategic plan has shaped how Brookline budgeted for or provided IT services, functions, hardware and software nor were needs coordinated between departments to provide an overall integrated service. The result has been a delivery of service that is more reactive than proactive. It has also lead to a sub optimization of the IT function within separate departments, multiple data bases that do not interface efficiently with each other, specialized servers servicing individual departments, multiple application software packages providing similar functions, and similar other inefficiencies. Further, the management structure of the existing IT function has not grown to reflect either the demand or the scope of the services provided, resulting in a somewhat random, poorly defined and sometimes overlapping assignment of IT responsibilities both within the IT department as well as within other departments performing a variety of their own IT functions.
2. Training has not kept up with the growth in usage and services provided. Many end users do not fully understand all of the features of the applications within their departments, IT staff feel that they are under trained, and Brookline IT training for new hires is not an established entry program. Thus, Brookline is not making the most of what they have.
3. The IT decision making process is dispersed and not well coordinated both between Town departments and between Town and School. This has resulted in decisions that have not fully considered many of the factors that should have driven IT choices, such as:
 - achieving economies of scale
 - the ability to integrate easily with existing systems

- systematic tradeoffs to pursue the best solution after fully exploring all available alternatives
- tracking of implementation results and incorporation of “lessons learned”
- purchase of systems only after fully considering and accounting for required increases in support costs or staffing.

Rather, the impact of some of these considerations has often come as a “surprise” after the fact.

4. A general dissatisfaction among teachers with the level of IT support they receive as instructional use of computers in the classroom expands. Again, this appears to stem not from a lack of availability of appropriate hardware and instructional software tools but from insufficient systemic, on-call centralized technical support.

This somewhat random and uncoordinated growth is not unique to Brookline. Many organizations in both the public and private sector have suffered from the same kind of lack of centralized planning, support and execution as their IS functions grew and their IT infrastructure expanded. Today, in most major industrial organizations the IT function has been centralized at the company level. Generally reporting to the Chief Operating Officer (COO) IT has sufficient stature and visibility to guide and coordinate the planning for and delivery of Information services throughout the entire organization and to avoid the same kind of pitfalls and inefficiencies Brookline has experienced. In Brookline’s case, it is clear to CTO&S that today the job of providing the appropriate level of information services far exceeds the normal purview, focus or interests of a Finance Department. IT must be both centralized and elevated to the municipal “COO” level (i.e., Town Administrator and Superintendent of Schools) so that that level of attention, coordination, oversight and influence in both the School and Town can be brought to bear.

Such a change will not be a panacea. Its success will still depend on a number of factors including the continued cooperation between School and Town, the caliber of the person hired to fill the CIO position, the continued quality of service provided by those who today provide Brookline’s IT services both within the IT department and within other school and town departments, the active participation of the internal Town and School Interdepartmental IT committee, the advocacy for citizen services and technical expertise provided by the Town/School Citizen IT Advisory Committee and the personal involvement of the Town Administrator and the Superintendent of Schools in making sure that all of the above happens in a smooth, focused and efficient manner.

Lastly, although we enthusiastically endorse the creation of the centralized IT department enabled by the action of Article 8, CTO&S would like to register a few concerns, that hopefully will be addressed as Brookline moves into a new IT era:

1. We fully understand that many if not most of the details of the to-be-created department have not been finalized and that some latitude should be given to the incoming CIO so that he/she has the flexibility to create a department that fits the new CIO's management style, vision of where our town should go and preferred path for getting there. But at the same time we think that a clear foundation needs to be established by the Town Administrator and the Superintendent of Schools. This foundation must be established before the selection of a new CIO and must include:
 - how the CIO will operate under the direction of two masters (a finalized and signed off MOU between the Town Administrator and the Superintendent of Schools does not exist as of this writing)
 - an outline of the specific duties of the CIO (we have not seen a job description as of this writing)
 - a written statement from both the Town Administrator and the Superintendent of Schools expressing, at high level, the performance objectives that the CIO will be expected to meet (this has been alluded to but not committed to writing)
 - the IT functions of the IT department relative to other departments in which IT functions are performed (we have seen what the consultant's report recommends but nothing has been committed to writing by either Town or School officials)
 - a statement explaining the purpose and philosophy behind the internal departmental IT committee and the external Citizens Advisory IT Committee along with a high level outline of their respective duties and roles (again there is only the recommendation of the consultant).

2. We see nothing in either the consultant's report or any statement Town or School on the adoption or implementation of quantitative measures (often referred to as "metrics") to assess and track how well the IT function is being served by the new organization. Information services are often "squishy" in nature and not easily measurable, but it is that very fact that requires that metrics be established up front to measure progress and help determine when a change in the delivery of the IT function is required. The technology in data processing hardware and software, networking and communications will continue to change at an astonishing rate and in ten or fifteen years the technical architecture that supports information services may be as unrecognizable as today's would have been fifteen years ago. That magnitude of change will have an impact on how Brookline should best organize to provide those services and we will need clear indicators to tell us what we are doing right, what we are doing wrong and when we should change. CTO&S does not expect to see these metrics defined prior to the hiring of the CIO and the creation of the department, but we believe that Brookline has an obligation both to itself and to the incoming CIO to register its intent to establish quantitative measures of IS performance to which the CIO will be accountable and with which both School and Town will be guided in its delivery of services.

This measurement will allow the Town to monitor the expected added efficiencies in the School and other Town Departments of the new IT organization. That should help Town

Meeting determine the extent to which cost savings have maintained revenue neutrality after the expenses of the new department, or if revenue neutrality has not been maintained, whether the added cost has been justified in added service enhancement.

3. In everything we have read and discussed about the recommended Town/School Citizen IT Advisory Committee, as well as in our discussions with some of the current members of the Committee, there has been a tendency to look upon this body as a source of external expertise – i.e., its members are very knowledgeable technically and are “part of the club.” Indeed, when we met with them we were very impressed with the personal knowledge they made available to Brookline government and the technical resource they provided. However, we believe that there is another use that should be made of the IT Advisory Committee that may not be well served by a committee of only “experts.” We believe that the Committee should also serve as the voice of advocacy for citizen IT services, and that to do that effectively, committee membership has to include non-experts who represent the average user. They will provide a different voice that will reflect different priorities and expectations, and in the opinion of CTO&S, a voice that needs to be heard. Both types of members need to populate the committee.
4. Finally, we feel compelled to at least mention that it is not lightly that we endorse the creation of a new enterprise-wide department. The initial cost (for 2003) is modest but will undoubtedly increase over the next few years (the consultant’s estimate shows an increase over current annual spending of more than \$2M per year for the five year period 2003 to 2007). While everyone expects this to be repaid in some combination of increased productivity/efficiency (freeing some employees to provide other services) and increased IT service provision (that will hopefully benefit the citizens of Brookline), it bears watching, measuring and scrutinizing. Brookline government must never lose sight of the fact that its IT function is not an end in itself but rather is a tool in the provision of municipal and educational services to its end users, the citizenry of Brookline. The cost of providing and maintaining that tool must always be justified by the direct services it leverages. As the IT department establishes itself in the years ahead, we urge the Selectmen, the School Committee, the Advisory Committee and Town Meeting to ensure that that justification always exists and is readily apparent.

In conclusion, CTO&S believes that we need to get all IT systems and users in both the School and Town to equal levels – levels that will enable moving ahead as the times demand and the technology allows. It is our assessment that both organizations desire to make this happen and are willing to commit to the centralized leadership that must be brought to bear to make this a success. CTOS recommends favorable action on the vote printed below the Advisory Committee’s recommendation.

SELECTMEN'S RECOMMENDATION

This proposed Home Rule petition is directly related to the recent Information Technology (IT) Strategic Plan completed for both the Town and Schools of Brookline. The purpose of this article is to remove unnecessary language regarding information technology from the special act that established the Finance Department, Chapter 25 of the Acts of 1993. In doing so, Information Technology will become a stand-alone, more visible and accountable department, with direct reporting responsibilities to both the Town Administrator and the Superintendent of Schools - - a major recommendation of the IT Strategic Plan. (Article 8 does not involve funding the IT Strategic Plan; Article 9 includes a recommendation for funding the first year of the new department, which is described in detail in the FY03 Financial Plan.)

BACKGROUND

IT was originally placed under the Finance Department's umbrella due to the fact that in 1992-1993, data processing (as it was commonly referred to) was primarily finance and business systems related. Virtually all aspects of IT's roles and responsibilities dealt with financial management systems, including payroll processing, the Town's financial system, utility bill (water/sewer and refuse) generation, and financial management reporting, to name a few. That has all changed over the last decade, as IT applications, systems, and services have expanded into virtually every Town and School department.

In addition, IT applications have become enterprise-wide, servicing more than one department. Examples of this include the Geographic Information System (GIS), which is used by almost every Town Department, as well as by the Schools; the Internet, specifically E-Commerce applications, which are currently used for Recreation Programs, Property Tax payments, and utility bill (water/sewer and refuse) payments; and the intranet, the Town's internal homepage. These expanded applications have become the dominant functions of this Department over the past decade and are anticipated to become even more prevalent over the next decade.

STRATEGIC PLAN

Discussions of a Brookline-wide IT strategic plan date back to December, 1999, when the Town and School administrations began to more fully understand the increasingly vital role IT was playing in their respective organizations. In December of 2000, final discussions occurred regarding the need for funding such a study, and the groundwork was laid for the drafting of a Request for Proposals (RFP). Representatives from the Town and Schools developed the RFP, which was issued on March 29, 2001.

On April 26, 2001, 19 responses to the RFP were received. The review team narrowed the responses down to 10. Pacific Technologies, Inc. (PTI), one of the finalists, was the only firm given the "Highly Advantageous" rating by each member of the review team. After extensive

checking on PTI's references on similar engagements and based upon an outstanding oral presentation from the firm, the Board of Selectmen awarded and executed the contract with PTI on June 19th.

Beginning on July 10th, PTI held eight workshops with the 18-person Steering Committee, consisting of representatives from both Town and School departments and Selectman Joe Geller. In addition, 10 specifically unique and in-depth focus group round table discussions were held with all of the effected stakeholders. The primary purpose of these workshops were to ascertain which IT-related functions were not working at expected levels and/or do not exist, and to determine what future applications users would like to see. The Focus Groups were grouped as follows:

- IT Managers
- Public Safety
- Licensing and Permitting
- Department of Public Works
- Citizens
- Comprehensive Plan
- Clerical
- Recreation / Library
- School
- Principals / Instructional Tech.

These 10 groups enabled the consultant to gain a wide-ranging view of the Town's current operations, as well as individual needs and expectations. Specific ideas and recommendations were provided to PTI from the participants so as to provide improved services in the future. The involvement of Brookline residents also added the important public dimension to this needs assessment and future plan design. In total, more than 100 people participated in the study.

RESULTS

On January 24, 2002, the final IT Strategic Plan was delivered to the Town. The findings and recommendations, which are provided in detail below, were presented to the Board of Selectmen on January 29th, to the School Committee on January 31st, and to the Advisory Committee on February 28th. The plan was also reviewed by the Committee on Town Organization and Structure (CTO&S) on March 11th, April 1st, and April 16th.

The key findings of the Strategic Plan included:

- Brookline has made significant progress in IT, notably in GIS, E-Government, Internet presence, and Public Safety applications.
- Enterprise-wide IT leadership is lacking.
- Some cross-departmental functions are not well automated.
- IT initiatives are not reviewed on an enterprise-wide basis.
- Teachers and School management are dissatisfied with the integration of Instructional Technology into the curriculum.

To address these findings, PTI made the following major recommendations:

- Create a Central IT Department, led by a Chief Information Officer (CIO), who reports to both the Town Administrator and the School Superintendent.
- Create an annual IT decision making process similar to the annual Capital Improvement Plan (CIP) process with increased departmental and community input.
- Develop a strategic plan for Instructional Technology.
- Continue to invest in Internet and intranet applications to support core enterprise functions and to extend application functionality out to staff and the community.
- Consolidate servers to a Data Center.
- Invest in key applications areas including Maintenance Management, Management Reporting, Human Resources / Training, Permit and License Management, and Document Imaging.

REORGANIZATION

The Town and School administrations fully support the recommendation to create a central IT Department (ITD) led by a new CIO position. In that vein, the proposal calls for the following:

- the transfer of three School employees into the ITD;
- the creation of three divisions within the ITD (Enterprise and Cross-Departmental Applications, Town/School Operations, and Town/School Customer Services);
- the establishment of a Town/School Departmental IT Committee;
- the continued, but enhanced, use of the Information Technology Advisory Committee (ITAC); and
- the removal of IT from under the Finance umbrella (which is the sole purpose of this Warrant Article).

The new CIO position will be responsible to both the Town Administrator and the School Superintendent, as laid out in their Memorandum of Understanding (MOU). The CIO will also chair the Town/School Departmental IT Committee and be the key staff person on the ITAC.

Town/School Departmental Committee

Composed of representative from major departments and chaired by the CIO, the purpose of the Town/School Departmental IT Committee is to ensure that departments receive needed services from the ITD. Such a committee also ensures that departmental applications follow ITD standards, especially in terms of implementing and maintaining, to the greatest extent possible, enterprise-wide applications. Ensuring this two-way communication between departments is an essential part of the re-organized ITD and will help to identify cross-departmental synergies.

The Committee would consist of, at a minimum, representatives from the School Department, Police Department, Department of Public Works, Finance Department, Library, and Town Administrator's office. Meetings would be held monthly for the first six months, after which time the meetings would be held every other month. The meetings would cover, at a minimum, issues with the current system, progress of the implementation of new systems, and discussion of future IT needs.

A key function of the Committee would be the establishment and approval of an annual Five-Year IT Funding plan (the so-called IT CIP) that becomes part of the annual budget cycle. Modeled after the annual CIP Process, the committee would review and prioritize all requests.

Information Technology Advisory Committee (ITAC)

The current ITAC is comprised of three citizen members, a member of the Board of Selectmen, a member of the School Committee, a member of the Advisory Committee, and various representatives from many town and school departments. The revised ITAC would consist of the three citizens, a member of the Board of Selectmen, a member of the School Committee, a member of the Advisory Committee, and staff from both the Town Administrator's and School Superintendent's Offices. (It is no longer necessary to have the representatives from the various departments on the ITAC, as they are part of the Town/School Departmental IT Committee.)

The ITAC allows for a community perspective on both town and school IT, provides IT industry expertise, and advocates for the IT Strategic Plan. Meeting quarterly, the two primary functions of the key function of the Committee are the approval of the annual Five-Year IT CIP and the approval of the annual update to the Strategic Plan.

CONCLUSION

Based upon the discussion above and the review of "best practices" in both the public and private sectors, we believe that the action resulting from this organizational change will provide immeasurable future benefits to our Town and will enable us to better service our community.

Therefore, the Selectmen recommend FAVORABLE ACTION, by a vote of 4-0, on the following vote:

VOTED: To authorize and approve the filing of a petition with the General Court in substantially the following form:

AN ACT CONCERNING THE DEPARTMENT OF FINANCE IN THE TOWN OF BROOKLINE.

Be It Enacted, etc., as follows:

Section 1. SECTION 3 in Chapter 25 of the Acts of 1993, is amended as follows:

- a. by deleting “information services” in the first sentence and by amending the first sentence to read: “The department shall assume and be responsible for the present functions and statutory duties of the offices of comptroller, treasurer/collector, purchasing and assessing.
- b. by deleting paragraph “x.” and by renumbering paragraph “xi.” to paragraph “x.”.

Section 2. Part “C.” in SECTION 4 in Chapter 25 of the Acts of 1993, is amended as follows:

- a. by deleting, at the end of the first sentence: “and the development and maintenance functions of information services.”, and by changing the “,” after the words “and treasury functions” to a “.”.
- b. by deleting, at the end of the first paragraph: “and manager of information services.”, and by deleting the “,” after the words “chief procurement officer” and by amending the remaining portion of the paragraph to read “and chief assessor.”
- c. by amending the first part of the fourth paragraph, immediately prior to item “i”, to read: “In addition to supervising and directing the effective functioning of the divisions of treasury, accounts, purchasing and assessing, the director shall have the following specific powers and duties:” and by deleting item “x” and renumbering the remaining items accordingly.

Section 3. SECTION 5. in Chapter 25 of the Acts of 1993 is amended by deleting all of part “E.”.

Section 4. This act shall take effect upon its passage.

ROLL CALL VOTE:

Favorable Action

- Kalikow
- Geller
- Hoy
- Allen

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This Article is a home rule petition which removes Information Technology (IT) responsibilities from the Finance Department. IT responsibilities were specifically assigned to the Finance Department by the enabling legislation which set up the current structure of the Finance Department. (Home rule legislation was required back then since the Town was converting its Treasurer/Collector position from elected to appointed.)

The net effect of the proposed language is to remove all mention of IT responsibilities from the Finance Department enabling legislation.

DISCUSSION

This warrant article is necessary to implement the first phase of the Town's IT Strategic Plan. This phase creates a new Information Technology Department under the leadership of a Chief Information Officer.

The May 2001 Annual Town Meeting provided funds to conduct an IT Strategic Plan. The Town sought to conduct this IT Strategic Plan in recognition of the growing costs and importance of technology deployment in effectively conducting Town affairs. The purpose of the plan was to examine the state of Town IT deployment and direction over the next five years, to assess the IT organizational structure and decision making process and propose future IT priorities.

The Town engaged Pacific Technologies, Inc, a firm with considerable experience in the field, to create the plan. The plan was conducted in consultation with a steering committee consisting of directors and managers from across the Town organization. PTI conducted a series of interview, focus groups and workshops. More than 200 stakeholders participated in the process.

. The study examined:

- Service Delivery – the current IT Organizational Structure and staffing
- Applications- the software used to support the Town
- IT Decision Making- the processes and participants responsible for making IT investment decisions
- Technical Infrastructure- the hardware, networks and operating systems that support the applications

The study found that while the Town has done well with respect to particular aspects of its deployment of IT technology, some changes need to take place to better position itself for the future. Notable successes are:

- The Town's content rich web presence
- The Geographic Information System (GIS)

- Public Safety Applications

The study conveyed the following concerns:

- Enterprise-wide IT leadership is lacking
- Separate Town and School IT organizations reduce service delivery efficiency
- Some core cross-departmental functions are not well automated
- IT investment decisions are not made on a Brookline-wide basis
- Teachers and School management are dissatisfied with integration of Instructional Technology into the curriculum.

To address these concerns, the study proposes the following:

1. Create a central IT department, led by a Chief Information Office (CIO), with two additional positions providing shared IT support to Town and School departments. Police, Library, Public Works and the Schools will continue to provide their own department application specific support subject to review by the CIO.
2. Invest in certain applications to support core enterprise functions. The study suggests starting with maintenance management and Internet/Intranet automation.
3. Create an annual IT decision process similar to the annual CIP process with increased departmental and community input.
4. Consolidate servers to a data center
5. Develop a strategic plan for Instructional Technology.

The study also suggests increased spending in the future for some specific IT projects and upgrades.

The only recommendations being proposed for implementation in FY 2003 are the IT reorganization and changes to the IT decision making process. This warrant article (along with the IT Department budget) provides the legal framework to implement the first recommendation; the creation of an IT Department led by a CIO. The CIO will report to both the Town Administrator and the Superintendent of Schools. A Memorandum of Understanding is currently being drafted between the Town Administrator and the Superintendent of Schools to implement the dual reporting relationship.

The intent is to raise the profile and organizational importance of the IT Department and to merge some Town and School IT functions. The CIO position will be at a senior department head level and will be charged with:

1. Providing Enterprise wide IT leadership and vision
2. Managing the central IT Department and providing a common infrastructure
3. Guide departmental application services

4. Providing leadership in setting IT technical standards for all Town and School departments.

As shown on the Proposed Organization chart, the Department will have three divisions:

1. Enterprise & Cross Departmental Applications
2. Town and School Administrative IT Operations
3. Town and School Administrative Customer Service (Help Desk)

Three positions currently in the school's IT section will be relocated in the new central IT Department.

Another aspect of the Plan which is being implemented (but does not require any Town Meeting action) is the creation of a Town/School Departmental IT Committee and a Town/School Citizen IT Advisory Committee (ITAC). The Departmental Committee, chaired by the CIO, is intended to ensure that departments receive needed service levels and that departmental applications support follows central IT standards. The ITAC is intended to provide community perspective and outside expertise to assist the CIO in developing Brookline's IT future.

The study's spending and project recommendations will be considered in future fiscal years after the CIO is on board (if the reorganization is approved by Town Meeting). Any increased future spending in the IT area will be competing for scarce resources with other Town and School priorities and are subject to Town Meeting debate and approval when proposed.

RECOMMENDATION

The Advisory Committee is extremely supportive of the IT reorganization. Both the Town organization and Schools have expressed strong support for the reorganization. The key to success will be in recruiting a strong CIO, the support of staff throughout the town and schools and in general in how the plan is executed. The Advisory Committee, by a nearly unanimous vote, recommends FAVORABLE ACTION on the vote offered by the Selectmen.

ARTICLE 9NINTH ARTICLE

To see if the Town will:

A.) Fiscal Year 2003 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 2003 budget, including without limiting the foregoing, all town expenses and purposes, debt and interest, out of state travel, operating expenses, stabilization fund as provided for in General Laws Chapter 41, Section 108; authorize the continuation of all revolving funds in accordance with G.L. Chapter 44, Section 53E ½, and all Enterprise Funds in accordance with G.L. Chapter 44, Section 53F ½; and provide for a reserve fund.

B.) Fiscal Year 2003 Special Appropriations

Appropriate sums of money for the following special purposes:

- 1.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen, for furnishings and equipment for Town Buildings.
- 2.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removal of asbestos from Town-owned buildings.
- 3.) Appropriate \$56,400, or any other sum, to be expended under the direction of the Chief Information Officer, with the approval of the Board of Selectmen, for hand held inspection equipment for the Building and Health Departments.
- 4.) Appropriate \$55,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for ADA renovations to Town-owned buildings.
- 5.) Appropriate \$300,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for repairs at the Town Municipal Service Center.

- 6.) Appropriate \$52,300, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for the purpose of improving municipal building security.
- 7.) Appropriate \$55,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, to upgrade the Train Memorial Public Health Building.
- 8.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Director of Planning and Community Development, with the approval of the Board of Selectmen, for the purpose of creating a Public Event Kiosk.
- 9.) Appropriate \$180,000, or any other sum, to be expended under the direction of the Director of Planning and Community Development, with the approval of the Board of Selectmen, for the purpose of completing the Town's Comprehensive Plan.
- 10.) Appropriate \$10,000, or any other sum, to be expended under the direction of the Director of Planning and Community Development, with the approval of the Board of Selectmen, for a Facade Improvement Program for the commercial areas of the Town.
- 11.) Appropriate \$180,000, or any other sum, to be expended under the direction of the Director of Planning and Community Development, with the approval of the Board of Selectmen, for streetscape and civic space improvements.
- 12.) Appropriate \$325,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a fire engine.
- 13.) Appropriate \$30,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for pavement of the Fire Training area.
- 14.) Appropriate \$20,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for the design and installation of air conditioning systems at various fire stations.
- 15.) Appropriate \$30,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for improvements to school zone signals.
- 16.) Appropriate \$1,062,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.

- 17.) Appropriate \$254,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.
- 18.) Appropriate \$217,094, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for traffic calming studies and improvements.
- 19.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for sidewalk reconstruction.
- 20.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for streetlight replacement and repairs.
- 21.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for pathway reconstruction.
- 22.) Appropriate \$35,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Chestnut Street drain / Willow Pond environmental controls.
- 23.) Appropriate \$80,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the Amory Park environmental study.
- 24.) Appropriate \$127,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Parks and Recreation Commission and the Board of Selectmen, for improvements at Larz Anderson Park.
- 25.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Parks and Recreation Commission and the Board of Selectmen, for the renovation of playground equipment, fields and fencing.
- 26.) Appropriate \$120,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town / School grounds.

- 27.) Appropriate \$67,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Parks and Recreation Commission and the Board of Selectmen, for improvements to Longwood Park.
- 28.) Appropriate \$47,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Baker School field improvements.
- 29.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.
- 30.) Appropriate \$25,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for improvements to the Lost Pond Sanctuary.
- 31.) Appropriate \$40,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the removal and replacement of Hemlock Trees.
- 32.) Appropriate \$65,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for improvements to the Walnut Hill Cemetery.
- 33.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for improvements to small green open spaces / streetscapes.
- 34.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Park and Recreation Commission and the Board of Selectmen, for tennis and basketball court improvements.
- 35.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Park and Recreation Commission and the Board of Selectmen, for the replacement of lockers at the Municipal Swimming Pool.
- 36.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the School Committee and the Board of Selectmen, for miscellaneous repairs at the High School.
- 37.) Appropriate \$115,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the School Committee and the Board of Selectmen, for the Pierce School bathroom remodeling.

- 38.) Appropriate \$900,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the School Committee and the Board of Selectmen, for the replacement of the HVAC system at the Pierce School.
- 39.) Appropriate \$50,000, or any other sum, to be expended to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for water meter replacement.
- 40.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for a water system hydraulic analysis.
- 41.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the Singletree Water Tank rehabilitation.
- 42.) Appropriate \$1,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the improvement of storm drains.
- 43.) Appropriate \$375,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the School Committee and Board of Selectmen, for design of and the making of improvements to the Driscoll School building and grounds.
- 44.) Appropriate an additional sum of money, to be expended under the direction of the Building Commission, with the approval of the School Committee and the Board of Selectmen, for remodeling, reconstructing or making extraordinary repairs to and for additions, where such additions increase the floor space, to the Lawrence School.

C.) Funding

And determine whether such appropriations shall be raised by taxation, transferred from available funds, provided by borrowing or 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 aforesaid, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

The Board of Selectmen is in agreement with the Advisory Committee on the FY2003 Town Budget, with the one exception of a single line item in the DPW budget. (See Override Requirements below.) We recommend a budget in the amount of \$174,251,474, a decrease of \$1,153,736 (0.7%) over the current fiscal year. This includes a General Fund operating budget of \$143,844,399, which represents an increase of \$5,134,745 (3.7%) over the current year. Also included is a tax-financed capital budget (\$5,817,794), enterprise fund budgets (\$21,283,267), and an operating budget reserve fund (\$1,024,766). The major categories of General Fund revenues and expenses are summarized as follows:

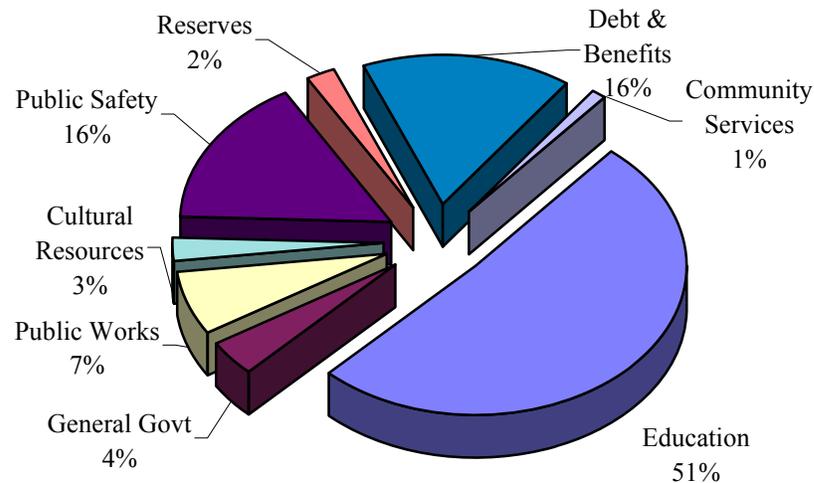
FY2003 GENERAL FUND SUMMARY			
	FY2003	INCREASE/DECREASE	
		\$	%
REVENUE			
Property Tax	108,911,693	4,350,868	4.16%
Local Receipts	17,023,512	(164,395)	-0.96%
State Aid	18,756,510	(970,454)	-4.92%
Free Cash	5,261,797	(6,275,053)	-54.39%
Other Available Funds	<u>8,103,213</u>	<u>1,088,809</u>	<u>15.52%</u>
TOTAL REVENUE	158,056,725	(1,970,225)	-1.23%
(LESS) NON-APPROPRIATED EXPENSES			
State & County Charges	5,655,466	(155,617)	-2.68%
Tax Abatement Overlay	1,500,000	(893,355)	-37.33%
Deficits & Judgments	50,000	(30,000)	-37.50%
Cherry Sheet Offsets	<u>1,189,066</u>	<u>0</u>	<u>0.00%</u>
TOTAL NON-APPROPRIATED EXPENSES	8,394,532	(1,078,972)	-11.39%
AMOUNT AVAILABLE FOR APPROPRIATION	149,662,193	(891,253)	-0.59%
APPROPRIATIONS			
Town Departments *	51,820,788	1,443,189	2.86%
School Department **	52,002,463	1,736,636	3.45%
Non-Departmental	34,303,186	1,411,520	4.29%
Water and Sewer Enterprise Fund Overhead ***	5,187,829	398,067	8.31%
Golf Enterprise Fund Overhead ***	479,908	95,108	24.72%
Recreation Revolving Fund Overhead ***	<u>50,225</u>	<u>50,225</u>	<u>0.00%</u>
BUDGET SUBTOTAL	143,844,399	5,134,745	3.70%
Capital & Special Appropriations	<u>5,817,794</u>	<u>(6,025,998)</u>	<u>-50.88%</u>
TOTAL APPROPRIATIONS *	149,662,193	(891,254)	-0.59%
BALANCE	0	0	

* The FY02 figure was adjusted upward by \$143,897 to reflect the monies transferred in FY03 from the School appropriation to the Town for the new IT Department.

** The FY02 figure was adjusted downward by \$143,897 to reflect the monies transferred in FY03 from the School appropriation to the Town for the new IT Department.

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

Graphically, the *fully-allocated* \$143.8 million General Fund operating budget is shown below:



Obviously, the single greatest challenge for the FY03 Budget is the proposed cut in local aid. Due to an early warning from the Chairman of House Ways and Means to all town and cities of a likely 10% reduction in local aid, the Financial Plan was able to accommodate this reality in a straightforward, deliberate manner.

While it is impossible to calculate a 10% local aid cut with precision, the Town Administration estimated that this level of reduction would result in a \$1.5 million cut for Brookline. Within the framework of the Town/School Partnership, the \$1.5 million reduction results in \$750,000 of cuts, respectively, for town and school budgets.

In very close collaboration with the School Superintendent, fiscally responsible strategies were developed to mitigate against adverse impacts of actual cuts of this magnitude. First, fixed costs were reviewed to ascertain whether adjustments could be made to lessen the extent of direct cuts in operating budgets. As a result of this review, the BC/BS group health increase was reduced from 7% to 5%; \$200,000 in potential savings from the recent bid of the refuse disposal contract was identified; and reductions were made in Worker's Compensation and other accounts. These actions reduced the level of direct budget cuts to \$477,035 for the Schools and \$472,965 for the Town.

After addressing fixed costs, operating budget reductions were developed that both protected vital services to the greatest extent possible and also recognized and potential long-term nature of the fiscal crisis. For Town Departments, the following summarizes the steps taken to meet the Town's share of the local aid cut:

- Police vehicle replacement reduced by 30% (\$101,884)
- DPW capital equipment and other reduced (\$117,882)

- Recreation and Building Department vans eliminated (\$48,000)
- Salary and Benefit Adjustments (\$174,965)
- Building repairs, legal settlements, other reduced (\$30,234)

In summary, the \$1.5 million local aid cut is being addressed as follows:

	TOWN	SCHOOL	TOTAL
Local Aid Reduction	\$750,000	\$750,000	\$1,500,000
Fixed Costs	(\$277,035)	(\$272,965)	(\$550,000)
Operating	(\$472,965)	(\$477,035)	(\$950,000)

In addition to the cuts in the operating budget base outlined above, there were many worthy requests for program expansion that simply could not be incorporated into the FY03 Financial Plan under the current circumstances. Initiatives recommended for addition to the Town's service program were considered only if they were enterprise-wide in scope and/or able to generate revenue and/or offset by reductions specified elsewhere in the Financial Plan.

The application of such stringent criteria necessarily resulted in the deferral of many proposals that could not meet these conditions. Some of the proposals that had to be deferred include: additional town funds for the continuation of the Park Ranger program; expansion of permanent custodial staff for the new Public Safety Building; and additional personnel for the branch libraries.

The impacts of potential local aid cuts might have proved to be even greater if not for an anticipated increase of \$800,000 in parking meter revenue. About \$350,000 is expected from more efficient collections resulting from upgraded meters and about \$450,000 is due to the rate increase from \$.25 to \$.50 an hour voted by the Transportation Board in November, 2001. Statutorily, meter receipts must be allocated for parking and traffic purposes, but doing so frees up budgetary capacity for other services.

BUDGET STRATEGY

The FY03 Financial Plan is based upon a strategy of reinforcing service delivery tied to our core municipal mission, while positioning our assets for a potentially long-term public sector recovery from the current recessionary conditions. As examples: (i) Enterprise Fund budgets (Water, Sewer, Golf) include limited cash reserves that can offset revenue losses from unexpected weather (or other) conditions; (ii) overall reserves have once again been adjusted in accordance with standing policies and are not recommended as funding sources for operating requirements; and (iii) the Debt Management Plan continues the policy of funding capital improvements at a level indexed to 5.5% of prior year net revenues.

The FY03 Financial Plan includes a moderated estimate of property tax “new growth” from new construction in the amount of \$1.2 million. Local Aid is decreased by 10% as described above. Some categories of Local Receipts show a downward direction, the result of the economic downturn. For the first time, the balance in the Town’s FEMA Reimbursement Account is being drawn upon to augment requirements in the Town’s on-going service program. This account balance has accumulated over the years due to differentials in the reimbursement rates utilized by Federal/State agencies for declared emergencies and the actual direct costs incurred by the Town. As of January 31, 2002 the account balance was \$305,000 with an encumbrance of \$197,000 for pending emergency management-related expenditures recently authorized by the Board of Selectmen.

Town fixed costs have been fully funded. Debt service will increase by approximately \$1.3 million (9.5%) as the annual debt service of the Baker School and Public Safety Building come on-line. Group Health is a continuing major concern as costs increase by approximately \$1.2 million (10.6%). The multi-year electric power contract with Exelon Energy expires in March, 2003 and additional funding is set aside to cover the potential increased costs for a successor contract. Fortunately, favorable bids seem to have avoided a spike in the Town’s long-term refuse disposal contract.

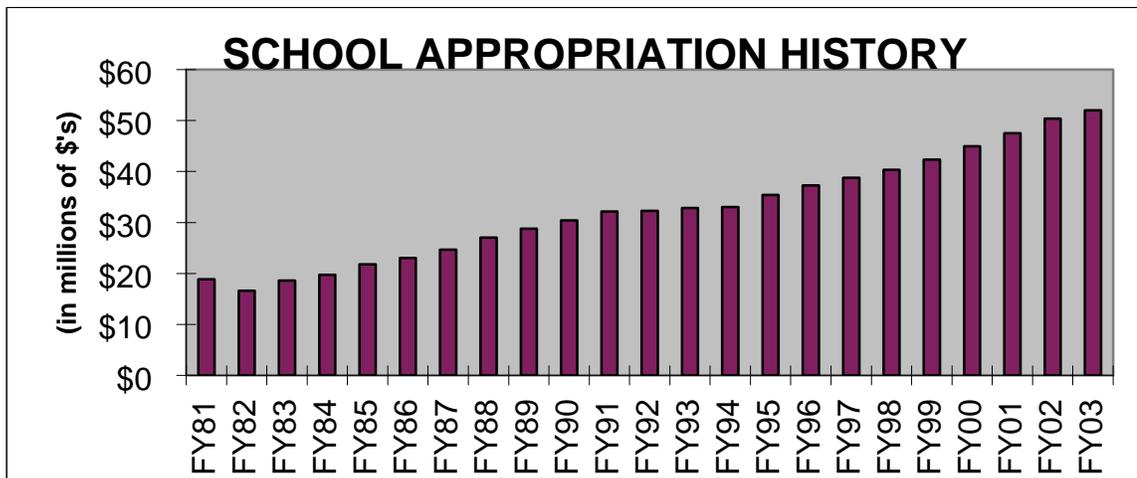
Despite the constraints of local aid cuts and reduced local receipts, the FY03 Financial Plan includes several major initiatives designed to advance to the Town’s overall service program:

- Allocation of \$227,000 earmarked for **Emergency Preparedness**, including \$30,000 for interdepartmental training funds in the Fire budget and \$197,000 recently authorized by the Selectmen from the FEMA reimbursement account for essential equipment, facility, and other needs identified by the Emergency Management Team.
- Implementation of the **IT Strategic Plan**, as recommended by Pacific Technologies, Inc., through a \$200,000 allocation for an Enterprise-wide IT Department, including:
 - A New CIO Position
 - A Full-service “Help Desk” Division
 - Consolidation of Town and School system services
- Expansion of **Parking Enforcement** capability as recommended by the Commercial Areas Parking Committee through the utilization of anticipated increased parking revenue in order to transform part-time parking control officers/school crossing supervisors to full-time parking control officers.
- Establishment of a **Payroll Unit** within the Finance Department to support accounting and human resource functions more efficiently by removing payroll functions from the Comptroller’s Office, thereby allowing more capacity for accounting demands (GASB #34, etc.).
- Realignment of the **General Services** operation from Information Technology to the Purchasing Division and the reassignment of **personnel advertising** from the Human Relations-Youth Resources Department to the Human Resources Department.

- Continuation of the funding plan for the Town’s **Post Employment Health/Life Insurance** obligation, estimated at \$118 million. In FY03, \$229,750 is recommended for this liability.

In addition to adding a limited, but important, number of initiatives to our overall service plan, several standing priority commitments are supported to the maximum extent possible:

- Funding for **education** is increased \$1.7 million, or 3.5%, which is a significantly larger increase than provided in previous Town budgets in prior recessionary periods.



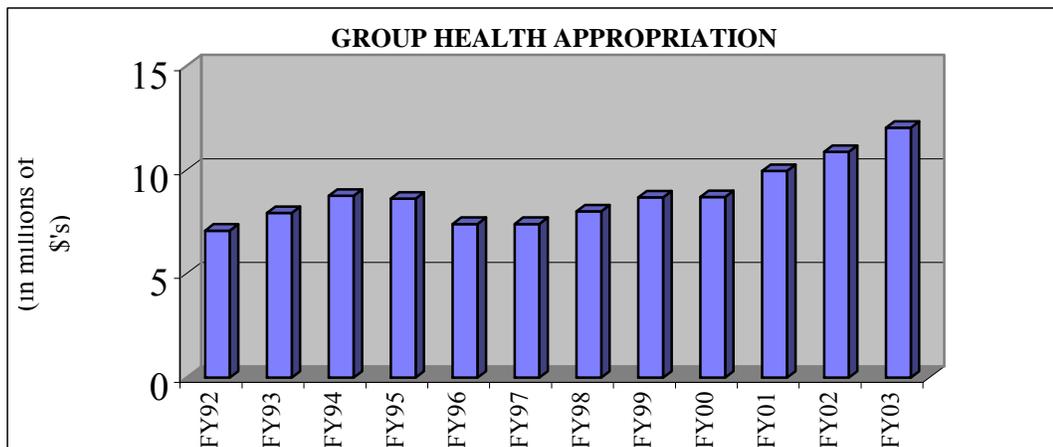
- Within the total \$1.7 million allocation for schools, **SPED** funding is increased by \$535,000, exclusive of collective bargaining, keeping pace with the needs described by the School administration.
- The accelerated replacement schedule of front-line **fire apparatus** is continued.
- **Zone management** for Parks and Open Space operations, initiated last year, is expanded to five positions in FY2003.
- The commitment to the **Affordable Housing** Trust is continued for a second year in the anticipated amount of \$311,225, per the policy adopted by the Board of Selectmen.

Finally, the FY03 Financial Plan addresses several perennial cost centers, which have, at various times, been characterized as “budget busters”. These are addressed in deliberate fashion consistent with the Fiscal Policies and recent past practice:

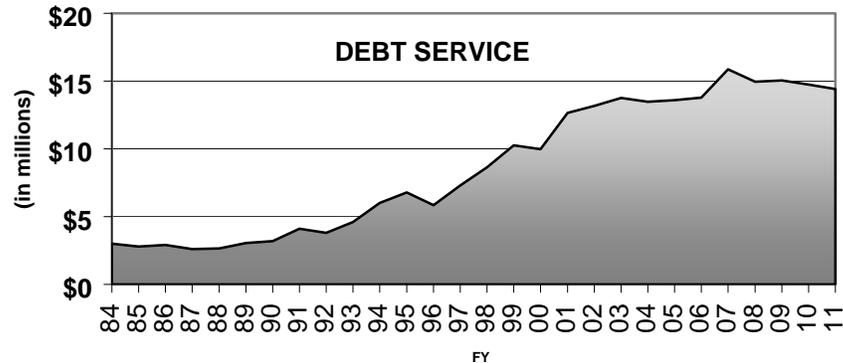
- Collective Bargaining – All town (police, fire, municipal) collective bargaining agreements expire on June 30, 2002. Potential town increases and increases already negotiated for school employees constitute the largest single cost center for the Town. The Selectmen have issued guidelines to the Town’s negotiating team that reflect cost of living indices, community comparisons, and the Town’s ability to pay in light of the changing revenue picture. The Town’s guidelines indicate that collective bargaining increases would be offset by savings and

efficiencies from changes in attendance and leave requirements along with greater management flexibility. Modification in group health provisions will also likely be sought.

- Group Health Insurance – The financial turmoil in the managed care industry continues to drive inflation of group health insurance to rates far exceeding the growth in government revenue. HPHC is still proposing double-digit increases to many Massachusetts communities and has notified the Town of a rate increase for its premium-based product of 15% for next year. Blue Cross / Blue Shield has priced their self-insured program at a 5% increase for the next year. This cost increase is exacerbated by a significant rise in the health plan employee enrollment. As employees retire, particularly teachers receiving incentives to retire early, they remain on the Town’s group health program before being covered by Medicare, if eligible, at age 65. Replacing the retired employee further adds to the group insurance enrollment. Finally, as School personnel levels rise, the School Department, through its share of fixed costs, absorbs a greater cost of group insurance.



- Special Education – The Town makes an extraordinary commitment to Special Education funding. Under the Town/School Partnership Agreement, SPED is considered a fixed cost, just as debt service obligations are considered a fixed cost. It is unlikely that any other municipality in the state makes this type of commitment to the funding of special education. Included in the FY2003 Financial Plan is a commitment of an additional \$535,000 for this purpose. This follows increases of \$730,000 in FY2002 and \$600,000 in FY2001.
- Debt Service – In FY2003, debt service is expected to increase by approximately \$1.3 million (\$9.5%). Again in FY2007, with the sale of debt for the Lawrence School, debt service is expected to increase by more than \$1.2 million. As part of the capital planning and debt management process, steps have been taken to slow new debt commitments until debt levels fall back to within the guidelines established by financial policy.



- Energy – At a time of rising energy prices, it is a challenge to maintain a conservation program strong enough to offset rapidly increasing prices. A two-year natural gas contract was negotiated in FY2002 that includes prices similar to the prior year's contract. The current electricity contract, which has been extremely favorable for the Town, expires at the end of the third quarter in FY2003. As a number of municipal buildings are refurbished, it will be important to monitor consumption use and adopt stringent conservation efforts to stabilize future price increases.
- Refuse Disposal and Residential Trash Fee - The Town's refuse disposal contract expires on June 30, 2002. As previously noted, the initial bids indicate potential first year (FY2003) savings of approximately \$200,000 below current costs. Even with these savings, however, the Town's reliance on property tax revenue to support sanitation operations will continue to increase. To reverse this trend of property tax revenue assuming a growing share of the service costs, the Town Administrator recommended a \$30 increase in the Residential Trash Fee. This proposal remains under active consideration by the Board.

FISCAL POLICIES

The Town's standing Fiscal Policies have contributed directly to the ability to formulate a maintenance of effort budget during a recession. The FY03 Financial Plan continues the practice of adherence to the Selectmen's Financial Improvement Programs and formal Budget Guidelines, which include:

- Long-range financial projections
- Retention of increased reserves
- CIP Financing policies
- Town / School Partnership Agreement
- Collective Bargaining settlements within ability to pay
- Position freeze on total number of Town employees
- Directives re: use of Free Cash
- Override requirements of 1994

Sustainable Revenue and Reasonable Expenditure Assumptions - Last year, as part of the development of the FY2002 Financial Plan, a careful analysis was undertaken to determine, in the event of a slowdown in the economy, what level of Local Receipts would be sustainable. That effort, which established a new “revenue mix” for the current FY02 budget, helped the Town avoid erratic revenue projections and dramatic swings in service delivery in the FY2003 Financial Planning process. This analysis included a review of how an increase in Local Receipts would effect future year capital funding.

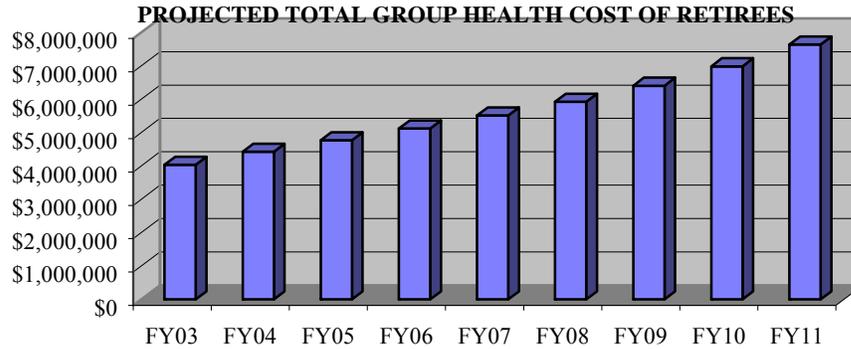
In order to factor reasonable expenditure assumptions into the forecast, an effort was made to broaden the discussion to include both department heads and external sources (Mass. Municipal Association; Mass. Taxpayers Foundation; other communities; etc.). A substantial review of major cost centers, including Group Health, Special Education, Debt, Retirement, Water/Sewer, Refuse, and energy costs, was conducted.

This approach anticipated an eventual economic downturn and guided the appropriation process to avoid building unsustainable income into the Town’s budget base. The severe year-to-date decline (44%) in interest earnings bears out the soundness of this approach.

Reserve Policies - Last year, a review of the Town’s Reserve Fund policies was conducted and areas of possible adjustment were identified. The FY2003 Financial Plan includes these adjustments to the appropriated reserves, non-appropriated reserves, Capital Stabilization Fund, Catastrophe and Liability Fund, and Retiree Group Health Insurance Trust.

- **Appropriated Budget Reserve** – In order to strengthen the ability of the Board of Selectmen and Advisory Committee to quickly resolve financial problems, while maintaining speed and flexibility in the community’s crisis management protocol, this reserve is funded at the full amount (.75% of prior year net revenue).
- **Non-Appropriated Budget Reserve** – Beginning in the current year budget and continued in the FY2003 Financial Plan, a reduction in the annual set aside from 0.75% to 0.5% is included in this plan.
- **Capital Stabilization Fund** – The existing policy calls for a level of funding equal to 1% of the replacement value of municipal buildings and content. The purpose of the fund is to provide revenue for capital improvements if Free Cash were to fall below \$2 million in any year. The Town has now updated the value of its municipal buildings and contents to the present value of \$315 million. Due to high investment yield, the fund currently has assets of approximately \$4 million. An adjustment to the present policy, allowing the fund value to rise above the previously established ceiling and provide at least four years of reserve, is being reviewed.
- **Catastrophe and Liability Fund** – The purpose of this fund is to protect the community against major facility disaster or from a substantial negative financial impact of a lawsuit. Due to the effects of September 11th, the insurance industry, overwhelmed with losses, is no longer offering insurance against terrorism. This reinforces the Town’s practice of funding reserves to targeted levels. Currently, the fund is at approximately \$1.3 million.

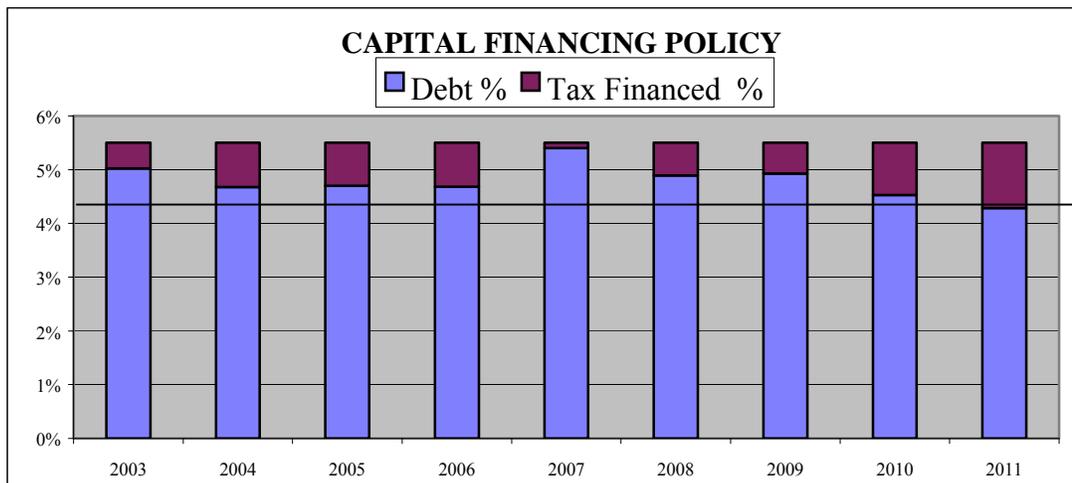
The FY2003 Financial Plan calls for the savings from the previously discussed non-appropriated reserve to again be diverted to this fund.



- Retiree Group Health Insurance Trust** – According to a 1998 actuarial study, the Town had an un-funded post-retirement benefit obligation estimated at \$94 million. In 2001, this figure was updated to \$118 million. In order to begin to address this issue, the Town adopted a strategy within the FY2000 Financial Plan to divert savings from Non-Contributory Retirement to this fund. Unmatched health insurance appropriations were also diverted to the fund at the end of the fiscal year. In order to continue progress in this area, several options have been included in the financial plan: departments with employees funded by non-property tax sources (Water/Sewer, Golf, Recreation Revolving Fund, and CDBG) shall include forward-funding for retiree health benefits in their budgets; when annual experience allows, unmatched funds will continue to be transferred into the fund; once the Town’s Pension Fund is fully-funded, the savings will be reallocated to this fund; and it is proposed that once both the Capital Stabilization Fund and Catastrophe and Liability Fund meet Town funding goals, savings from the non-appropriated reserve be diverted to this fund.

Debt Management Plan Adjustments – The Town's policy regarding capital financing is appropriate for a community of the size and needs of Brookline. Each year, 5.5% of prior year net revenue is dedicated to the improvement of capital and infrastructure. The guideline calls for 4.25% to be derived from debt financing and 1.25% from tax-financed sources. In recent years, a growing number of capital projects have received approval by Town Meeting for debt financing. In the next few years, projects such as the Baker School, Public Safety Building, Library, and the Lawrence School will all add to the Town’s current debt levels. The effect of this rapid build-up of debt is the concurrent reduction in the tax-financed portion of the capital funding plan in order to remain within the 5.5% funding cap. Expansion beyond this funding level can lead to a transfer of allocations from direct services to debt service. This places a great deal of pressure on the Town’s ability to continue to provide services at appropriate levels.

It is important to note that the planned bond sale for the permanent financing for the Baker School scheduled earlier this month, had to be deferred because of the local aid cut targeted for School Building Assistance. Instead the Town issued BAN's (bond anticipation notes) as a bridge to the time when state reimbursements of 61% of principal and interest commences. The Board of Selectmen endorses the Finance Director's recommendation to return to this matter in the Fall Special Town Meeting, if necessary. His proposal, if SBA funding is eventually restored, is to utilize the principle portion of the debt service budgeted for the permanent financing of the Baker School to reduce the total amount to be financed from \$10.5 million to \$10 million.



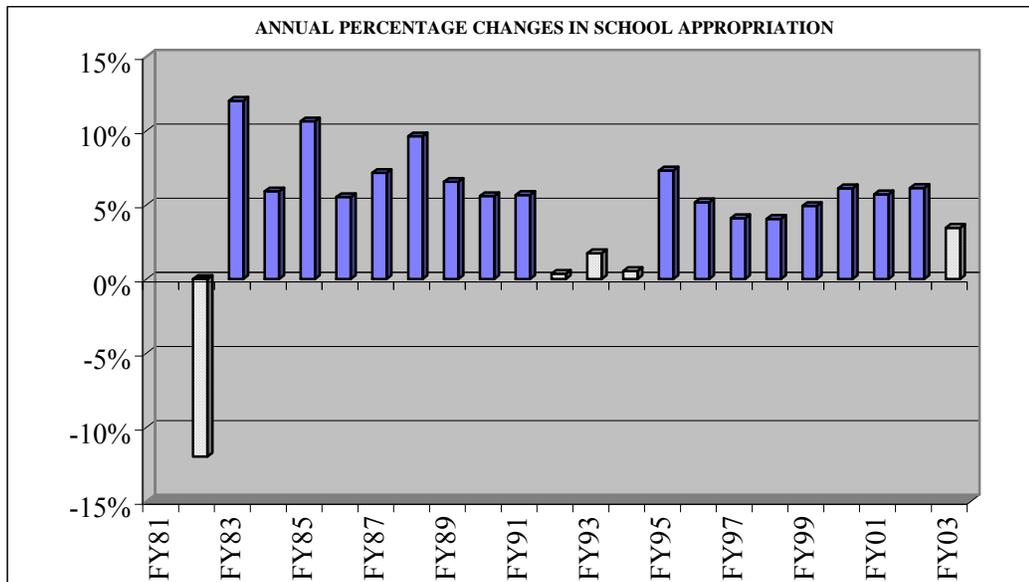
In order to keep within the Capital Financing Guidelines, the FY2003 Financial Plan continues the commitment of not exceeding debt service guidelines. In the next several years new projects, such as the Driscoll School, Beacon Street reconstruction, Landfill closure, Health Department Rehab, and Town Hall Rehab, come on-line. The timing of the construction of these projects allows the Town to remain within a 5.5% debt service guideline.

Brookline is one of just 11 communities in Massachusetts that has the Aaa credit rating, the highest possible. Among other factors contributing to this rating, Moody's Rating Services has cited the Town's "sound financial operations"; "well developed capital improvement plan"; and commitment to "previously dormant stabilization funds". Moody's findings are linked directly to the Town's Fiscal and Budgetary policies.

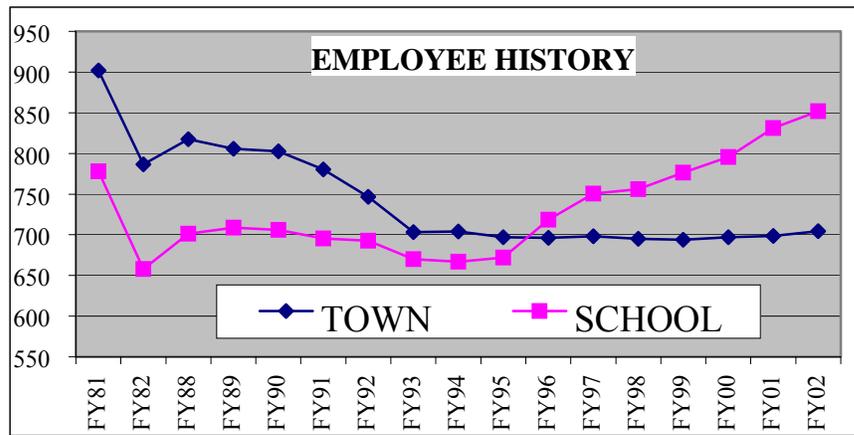
Town / School Partnership Agreement – Crucial to our annual financial plan is the Town / School Partnership Agreement, signed by the Superintendent and Town Administrator and approved by both the Board of Selectmen and School Committee in 1995. Perhaps unique in Massachusetts's local government, the Partnership Agreement affirms the primacy of education in the annual budget process. The Agreement establishes the objective of committing planned levels of operating revenues for education regardless of the extent of other demands. The Partnership

Agreement commits to education 50% of virtually all revenue that is not dedicated to fixed costs, with the remainder then allocated to other Town operating priorities.

The steady approach over time of the Partnership Agreement enables the FY03 Financial Plan to call for a 3.5% increase in school spending when we are experiencing the first recession in a decade; when state education aid has been cut; and when many other local school districts are facing no-growth or decreased budgets. The proposed 3.5% increase is a far cry from the level-funding or outright cuts that had to be imposed on the Brookline Schools in previous periods of fiscal decline. The graph below shows the annual percentage change of the education change since 1982. The striped lines highlight years when the economy declined and/or fiscal conditions deteriorated.



Collective Bargaining Guidelines – All municipal labor agreements expire on June 30, 2002. The Selectmen have adopted economic and language guidelines for use by the Town’s negotiating team. The economic guidelines are predicated upon cost of living indices, settlement patterns in comparable communities, and the Town’s ability to pay. Language proposals are designed to address attendance and leave trends along with other areas in which potential efficiencies and savings have been identified, including the group health program.



No Net Increase in Town Positions – Several years ago, the Selectmen adopted a position freeze policy on the number of Town personnel. This policy establishes a cap on the total number of Town (non-school) personnel. The purpose of this policy is to ensure that Town staffing corresponds to the Proposition 2 ½ cap on town revenue so that, even in favorable economic periods, staffing is not increased to unsustainable levels. Due to the implementation of the Public Safety Joint Dispatch operation, the current FY02 budget experienced a slight increase: the total number of Town personnel has risen to 704 positions. In the FY2003 Financial Plan, the total full-time position count will be reduced by one position: four existing positions will be eliminated, offset by the creation of three new positions. Beginning in FY2003, the standard measurement procedure for determining authorized positions will be converted from full-time to full-time equivalent (FTE).

Free Cash - The Board’s policy regarding Free Cash (that portion of undesignated fund balance certified as available for appropriation by the State Department of Revenue) requires that, after setting aside free cash in the amount of 0.75% of prior year net revenue as part of budget/strategic reserve funds, free cash will be used exclusively to fund capital or other one-time projects. Free cash for the fiscal year ending June 30, 2001 was certified by DOR in the amount of \$6.225 million (see Free Cash history on page II-27).

Override Requirements of 1994 – Since the Override was adopted each Town Budget has met, or exceeded, the purposes specified in the override, even though there is not a legal obligation to do so. The FY03 Financial Plan submitted by the Town Administrator continued this practice, with one exception -- the \$700,000 for DPW equipment. Because of the extent of local aid cuts and due to the fact that the aggregate of previous years appropriations for this purpose exceeded the \$700,000 target by \$125,000, the Town Administrator recommended an appropriation of just \$634,000 for this purpose. While the Board believes that the override funding targets should be reviewed, and considered for modification if warranted, it can not support at this time an appropriation of less than \$700,000 for FY03. In the alternative, the Board suggests that the sidewalk amount be reduced by this amount. The Advisory Committee, however, will recommend approval of the budget with the lower amount for DPW equipment.

CAPITAL IMPROVEMENT PROGRAM

Over the past several years, the Town has made a significant commitment to its Capital Improvements Program (CIP) to address the backlog of capital improvement needs created by the under-investment in the infrastructure during the late-1970's and the 1980's. In the last 11 years, the Town has invested more than \$200 million in the CIP. Although there is more to do in the areas of street repairs, parks and open space improvements, and school facilities upgrades, the commitment to capital improvements is clearly showing positive results.

The recommended FY2003 – FY2008 CIP complies with the Board of Selectmen's CIP policies, including the key provision of dedicating between 5% and 6% of the Town's net revenue plus available Free Cash. The CIP policies define what a capital improvement project is, how projects are evaluated and prioritized, and how the CIP is financed. The complete text of these policies can be found in Section VII of this Financial Plan.

The recommended CIP calls for an investment of \$75.6 million over the next six years, for an average of \$12.6 million per year. This continues the Town's commitment to maintain and improve its infrastructure and to reduce the backlog of projects requiring funding. This compares with the figure of \$10.5 million per year noted by the CIP Policy Committee as the necessary spending level to maintain the Town's capital infrastructure. The total appropriations from all financial sources by year and by project category are shown on the table below:

TOWN OF BROOKLINE CAPITAL IMPROVEMENT PROGRAM: FY 2003 - FY 2008									
	Total	Prior Year	Proposed 2003	Future Capital Improvement Plan					Future Years
				2004	2005	2006	2007	2008	
GRAND TOTAL BY ALLOCATION									
General Government	13,697,137	765,000	718,700	450,000	4,300,000	6,705,000	408,437	175,000	175,000
Economic Development	1,612,000	322,000	470,000	170,000	200,000	150,000	100,000	100,000	100,000
Public Safety	14,028,000	12,022,000	538,000	690,000	313,000	425,000	20,000	20,000	-
Library	13,239,606	12,461,106	-	442,500	106,000	205,000	25,000	-	-
DPW - Transportation	2,003,000	488,000	30,000	655,000	695,000	125,000	10,000	-	-
Engineering/Highway	35,892,705	5,047,891	2,421,814	17,813,000	2,158,000	2,158,000	2,098,000	2,098,000	2,098,000
Water / Sewer	16,140,000	8,540,000	800,000	2,050,000	550,000	2,050,000	50,000	2,050,000	50,000
Parks & Playgrounds	7,749,500	2,413,500	811,000	490,000	1,450,000	890,000	670,000	415,000	610,000
Conservation/Open Space	2,300,000	750,000	310,000	170,000	215,000	305,000	240,000	130,000	180,000
Recreation	6,960,000	2,830,000	700,000	670,000	460,000	425,000	555,000	1,120,000	200,000
Public Schools	68,949,620	20,943,638	1,852,600	3,414,001	999,381	1,140,000	880,000	2,710,000	37,010,000
Grand Total	182,571,568	66,583,135	8,652,114	27,014,501	11,446,381	14,578,000	5,056,437	8,818,000	40,423,000

Developing the CIP so as to stay within the Board's CIP financing policies was again very challenging this year. In recent years, the Town has committed debt financing for a number of large projects, including the High School, Baker School, the Public Safety Building, the Main Library, Landfill closure, the Lawrence School, and more. It is now believed that outstanding debt will exceed \$150 million with an annual debt service cost of \$16.1 million in FY2007.

While it is important that we maintain our commitment to the CIP, it is equally important that we remain committed to staying within our Capital Financing Policies. The Town has reached its funding goal of between 5% and 6% annually committed to capital in the area of debt financing alone. Given the rapid acceleration in our debt, and given that we have the highest debt burden per capita of the Aaa communities in the state, it is crucial that we maintain fiscal discipline in this process. In order to remain within the Capital Financing Policies, there will be little tax-financed capital projects in the next few years. There is expected to be sufficient revenue from Free Cash, CDBG, and State/Federal Grants to provide adequate funding during this period. This will allow the Town the opportunity to pay down some of the existing debt service and re-establish the tax-financed source of capital funding.

Some of the major projects being proposed in the Capital Plan are:

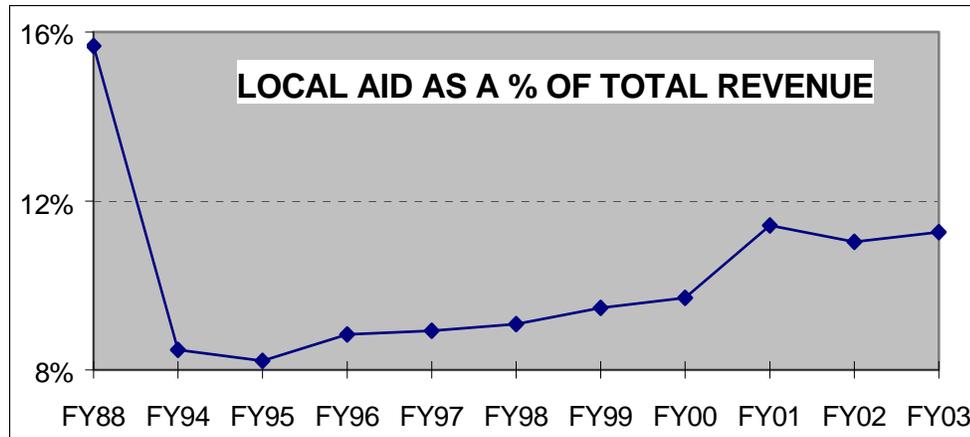
- Beacon Street Reconstruction - \$8 million
- Landfill / Park - \$6.7 million
- Various School Improvements - \$12 million
- Health Building - \$3.9 million
- Town Hall Rehab - \$6.6 million
- Parks, Open Space, Recreation – \$10.9 million
- Streets, Sidewalks, Traffic - \$20 million

It is important to note that the recommendations contained in the CIP are based upon our best estimates of future revenue. Budget reductions at the State or Federal levels could require significant cutbacks in the recommended program for future years. Also, the amount of Free Cash available for the CIP can fluctuate drastically from year to year. Should actual amounts be less than anticipated, then the CIP recommendations may have to be revised.

CONCLUSION

Local aid cuts have hit Brookline hard in the past and it has taken the Town years to recover from them. During the deep recessionary late-'80's and early-'90's, the Town experienced three consecutive reductions: -\$2.1 million in FY90; -\$0.5 million in '91; and a whopping -\$2.8 million in '92. It was not until FY00, a full 10 years later, that the Town's net local aid returned to the approximate level of FY89. The return to 1989 levels was the result of small, but at least steady, increases, primarily from Chapter 70/Ed Reform funding. The Town's proportionate

share of quite sizable increases in Ed Reform funding was only about 3/10's of one percent of the total allocation. Further, local aid as a percentage of the Town's total revenue in 1989 was almost 16%. Over a decade later, the Town has still not yet returned to that level. The current FY02 local aid still remains approximately 11% of total revenue.



In fact, the local aid cut initially proposed in the House Ways and Means FY03 budget was \$1,631,894, slightly higher than the \$1.5 million first estimated. Chapter 70 Education Aid was cut by 10%, as was the category of Additional Assistance. The biggest surprise was the 16% reduction in anticipated School Building Assistance funding.

	FY02 BUDGET	FY03 FIN. PLAN	HWM "NO NEW TAXES" BUDGET	IMPACT ON FY03 TOWN BUDGET
<i>RECEIPTS</i>				
Ch. 70	6,152,559	4,652,559	5,537,303	(615,256)
School Trans.	242,566	242,566	218,309	(24,257)
School Constr.	3,116,964	3,606,860	3,116,964	(489,896)
Lottery	3,977,495	3,977,495	3,977,495	0
Add. Assistance	4,401,448	4,401,448	3,961,303	(440,145)
Highway Fund	11,610	11,610	0	(11,610)
Quinn	549,897	589,547	542,650	(46,897)
Vets Benefits	54,138	54,138	56,074	1,936
Exemptions	31,221	31,221	25,452	(5,769)
TOTAL RECEIPTS	18,537,898	17,567,444	17,435,550	(1,631,894)

In addition, many "offset" and grant accounts were cut. Funds for Metco (-38%), Libraries (-25%), Community Policing (-100%), and others were heavily hit. (Interestingly, funding for Special Education was proposed to increase \$62 million statewide, or \$330,000 for the Brookline Schools, as estimated by the Superintendent's office.)

As this report is being prepared, the House of Representatives is about to begin the floor debate on its final budget after voting an estimated \$1 billion in tax increases. There are clear intentions to restore local aid accounts. However, even if the House votes significant local aid restorations, we believe there is little choice but to wait for the completion of the **ENTIRE** budget process (House, Senate, Governor) before considering add-backs to the Town budget. In effect, if restoration materializes, the Fall Special Town Meeting would be the opportunity to consider add-backs, if necessary.

Realistically, we need to anticipate that more than one year will be necessary to bounce back from current conditions. As suggested by the Massachusetts Taxpayers Foundation, the fiscal problems of the state might take two to three years to remedy even if the economy recovers sooner. Further, as history shows, it takes many years to rebound from local aid cuts.

The setback from anticipated local aid cuts, no matter the magnitude, will be tangible. Our underlying fiscal impediments are structural and will not recede, even if the economy improves. Low inflation, stable school enrollments, and other factors mask the inherent limitations of Proposition 2 ½, meager intergovernmental revenue, and decreasing local receipts. The needs of special education, information technology, emergency preparedness, energy costs, health costs, and this community’s justifiable insistence upon excellence in basic services simply do not match up over the long-term against the relatively flat line projection for resources. Any eventual deliberations about budget add-backs due to local aid restoration must keep the long-term in mind.

The Selectmen recommend, by a vote of 5-0, the following amendment to the DPW Budget, as set forth in Table II.

VOTED: To amend Table II by increasing DPW Capital Expenditures by \$66,884; and reducing DPW Purchase of Services by \$66,884.

ADVISORY COMMITTEE’S RECOMMENDATION

I. TOWN BUDGET

A. Overview

The FY2003 proposed budget is \$174,251,474. When you deduct the Water and Sewer Enterprise funds (\$19,947,507, minus \$5,187,829 in overhead) and the Golf Enterprise funds (\$1,335,760, minus \$479,908 in overhead), and the Recreation Revolving Fund (\$629,444, minus \$50,225 in overhead) this gives us a General Fund operating budget of \$158,056,726. From that

budgeted amount, \$8,394,532 of non-appropriated expenses that the Town is legally obligated to pay or put aside must be deducted. (These expenses include such things as the State and County charges and the Tax Abatement Overlay). This leaves **\$149,662,193** available for appropriation by this Town Meeting. It is an decrease of 0.59 % from FY2002.

The most notable aspect of this budget is the \$1.5 million cut (10%) in local aid from the State which, combined with the reduction in free cash, has resulted in the first declining budget in more than a decade. In addition, although Brookline property values and hence assessments have weathered the recession, we did experience a drop in some areas of local receipts in Fiscal '02 and we anticipate a small further drop for Fiscal '03. Local receipts include such items as Motor Vehicle Excise Taxes and Licenses and Permits. As of May 2002, building permits are down about 12% year-to-year from last year at this time, and most of that drop-off occurred in past several months. However, the increase in parking meter rates and fewer broken parking meters has led to an increase of approximately \$800,000 which offset other declines in local receipts.

We may actually be fortunate in that we receive so little local aid from the State, only 11% of our total revenue. Further, we begin this year in relatively sound financial shape due to an adherence to the fiscal policies set forth by the Financial Planning Advisory Committee ("FPAC") in the early 1990s. So, in spite of the 10% cut in local aid, we are able to present a budget in which no employees are being laid off and only relatively small cuts in programs are being made. This contrasts markedly with the surrounding cities and towns which are having to make some very difficult cuts in both personnel and programs.

There is one difference between the budget being presented by the Advisory Committee and that recommended by the Selectmen. Since the 1994 General Override, the Town and School Committee have faithfully adhered to the guidelines set forth to the voters concerning exactly how the override money would be spent, although they were only obligated to follow those guidelines for one year. This year the Town Administrator and Department of Public Works recommended that the DPW capital equipment line be reduced by \$66,884 and that the same amount be added to the DPW line for sidewalk maintenance. While the Advisory Committee in general applauds the efforts of the Town Administrator and Selectmen to stay within the override guidelines, it is the opinion of the Advisory Committee that the deficit in DPW equipment, which motivated the override guideline of \$700,000/year for DPW capital equipment, has been addressed. As we move into the stage of maintaining and periodically replacing our new equipment, that full \$700,000/year will not always be necessary. Strictly adhering to the guideline may in fact become wasteful. On the other hand, our sidewalks are in dire need of repair. Therefore, the Advisory Committee moves the budget as presented by the Town Administrator in the budget book with \$66,884 of the DPW budget in sidewalk repair and maintenance rather than in capital equipment.

B. Long-term Financial Health

1. Fiscal Policies

After struggling and cutting services for several years in the wake of the state's adoption of Proposition 2 1/2 (which limited the ability of cities and towns to increase real estate taxes to 2 1/2 % of the previous year's tax levy, plus new growth, unless the Town voted to authorize an override of that limit), the Town heeded the recommendation of the FPAC and established some disciplined fiscal policies. The Advisory Committee is strongly supportive of these policies which, together with the additional money provided by the 1994 General Override of \$2.5 million, have provided stability to the budgeting process, a method for financing the rehabilitation of our older buildings, a Partnership Agreement between the Town and Schools to work collaboratively on their budgets, and appropriate reserves to cover catastrophes and long-term obligations, such as the costs of providing health insurance to our retirees.

2. Reserve Funds

These Reserve Funds deserve special mention because the Advisory Committee frequently hears suggestions that they could be reduced to provide more operating money. However, the Advisory Committee believes that the maintenance of these Reserve Funds at rational levels plays a critical role in the Town's long-term financial health for the following reasons:

a. Our policy in setting and maintaining these Reserve Funds is a critical factor in the Town's Aaa Bond Rating from Moody's, the highest rating a municipality can have. This enables the Town to borrow money at the best possible rate for its large capital projects. As any homeowner knows, the change of a percentage point or two can make a huge difference in your monthly mortgage rates, and the Town's bond payment schedule is similar.

b. The Town is a self-insurer to a large extent. It has a deductible on its insurance policy which covers buildings and their contents that kicks in at \$100,000 for a single incident, but all smaller losses are paid for by the Town. The Town has many buildings, a fleet of vehicles including very expensive fire engines, and numerous other properties and assets that could be damaged. The Town saves money by not paying for more insurance coverage if it does not sustain losses, but it also assumes a significant risk. Therefore, money must be put aside to pay for such problems as they arise.

c. The Town is now preparing a Reserve Fund for a large increase in Group Health Insurance costs for Retirees. This cost is expected to rise as group health costs rise in general and as the members of the baby boom generation retire in larger numbers. Left unfunded, this could amount to a crippling burden on the budget in future years, but with the schedule we've begun to follow, this burden can be spread over many years, and both our Town employees and future operating budgets will be protected.

d. The Town has been financing its building projects such as the new Fire/Police Headquarters, part of the Library renovation, the Senior Center, and school rehabilitation projects partly from Free Cash and partly from selling bonds. In the event that the Town does experience much lower Free Cash as a result of the continuing crisis with the state budget, on-going building projects and other necessary capital improvements will not be jeopardized because we have a Capital Stabilization Fund of \$4 million that can be used to continue those projects.

The Budget proposes the following:

Appropriated Reserve Fund -This will continue to be set at .75% of the prior year's net revenue, or \$1,024,766 for FY2003. It is intended to be an operating reserve fund for unexpected costs. Expenditures from this fund require a majority vote of the Selectmen and then a majority vote of the Advisory Committee. In FY 2001 the entire Reserve Fund, except \$120, was needed to meet unexpected emergencies. In FY2002 to date, only about 12 % of the Reserve Fund has been spent as of early May due to our much lower than usual costs for snow and ice removal. We anticipate there are a number of additional requests for Reserve Funds that will arise at the end of the fiscal year.

Unappropriated Reserve Fund -In prior years, this fund, paid for with Free Cash, has also been set at an amount equal to the Appropriated Reserve Fund. It is to be used as an operating reserve in the event that the Appropriated Reserve Fund is fully expended and would require a vote of Town Meeting. After review last year, the Selectmen decided to reduce the size of the Unappropriated Reserve Fund to .5% of the prior year's net revenue, and place the additional .25% in the Catastrophe and Liability Fund in order to build that fund.

Capital Stabilization Fund -This fund currently has assets of \$4 million and would provide revenue for capital improvements if Free Cash falls below \$2 million.

Catastrophe and Liability Fund -This fund is to provide protection from a major facility disaster or a large lawsuit. The Town hopes to meet its funding goal of 1% of the previous year's net revenue this year by adding to what is in the fund with the savings from the reduction in the Unappropriated Reserve Fund.

Retiree Group Health Insurance Trust -As discussed above, the Town is beginning to address its obligation that was identified as a \$118 million unfunded liability in a 2001 update of the actuarial tables. Savings from other health insurance items, and from reductions in the non-contributory retirement obligations have been directed to this fund. It is presently funded at \$1.3 million.

3. Debt and Debt Service

The Financial Trend Monitoring Report shows the Town's debt, and consequently debt service, continuing to rise as we continue to undertake the backlog of large capital projects. While each of

these projects has been carefully scrutinized by the Advisory Committee and Selectmen and then voted by Town Meeting in the CIP (Capital Improvement Program), the total debt in the coming years is sobering. In FY1992, total outstanding debt was \$18 million; by FY2003 this is expected to rise to \$128 million, including the High School renovation project. In the proposed FY2003 budget, \$14,719,851 is devoted to debt service. Annual debt service rises in long-term projections to \$16,211,408 by FY2007. The Advisory Committee commends the Selectmen's policy to fund more small projects from Free Cash when available to keep debt service for CIP projects below 5% of net operating revenues.

4. State Aid

We anticipate that State Aid will drop next year and will continue to drop for several years as the Income Tax reduction is phased in, unless the leadership of the state legislature is successful in stopping the drop in the state income tax. We did finally see an increase in funding for Special Education mandates, as we had been requesting, but it was entirely offset by the drop in funding for the METCO program.

C. FY2002 Budget

1. Revenue

As stated above, total General fund revenue for FY2003 is estimated to be \$158,056,726. The property tax levy, which comprises 69% of annual operating revenues, is anticipated at \$108,911,693. This estimate includes the FY2002 levy limit of \$102,737,444, plus 2 1/2 % bringing the levy to \$105,305,880, plus \$1,820,768 new growth (this figure includes payments in lieu of taxes from nonprofits), plus debt exclusion costs for Lincoln School and the High School, which net at \$1,785,045 (\$4,615,848 in debt service for the two projects, minus \$2,830,803 in reimbursement money from the State's School Building Assistance funds). The property tax increase is 4.2 %. The Town's total anticipated revenue is as follows:

Property Taxes	\$108,911,693
Local Receipts	\$ 17,023,513
State Aid	\$ 18,756,510
Free Cash	\$ 5,261,797
Other Available Funds	<u>\$ 8,103,213</u>
Total Revenue	\$158,056,726

Free Cash was certified at \$6,225,000 by the State at the close of FY2001. This is a decrease of 49% from the very high Free Cash number we had last year, but it is in fact closer to the average Free Cash number we have had in recent years. Free Cash is generated when the actual operation costs for the previous year are less than anticipated in the budget and/or when more revenue is collected than anticipated. Because this source of revenue varies widely (from FY1991-FY1993 we had three consecutive years of negative Free Cash), it has been the Selectmen's policy to

deduct funding for the Unappropriated Reserve, then apply the remainder to Capital Improvements and other Reserve Funds or special one-time appropriations, rather than adding it to the Operating Budget. For FY2003, \$683,177 will be placed in the Unappropriated Reserve Fund. The proposed budget distributes the remainder as follows:

Capital Improvements	\$ 4,608,983
Stabilization Fund	\$ 0
Housing Trust Fund	\$ 311,225
Retiree Group Health Trust Fund	\$ 0
Liability Reserve	\$ 341,589
Total	\$ 5,261,797

2. Expenses

The amount available for appropriation is \$149,662,193. The FY2003 budget proposes that this amount shall be divided as follows:

Town Departments	\$ 51,820,788	+2.9%
School Departments	\$ 52,002,463	+3.5%
Non-Departmental	\$ 34,303,186	+4.3%
Water and Sewer Enterprise		
Fund Overhead	\$ 5,187,829	+8.3%
Recreation Revolving		
Fund Overhead	\$ 50,225	
Golf Enterprise Fund		
Overhead	\$ 479,908	+24.7%
Budget Subtotal	\$143,844,399	+3.7%
Capital and Special		
Appropriations	\$ 5,817,794	-50.9%
Total Appropriations	\$149,662,193	- 0.6%

(Non-Departmental expenses include items such as Group Health insurance, Debt Service, Pensions, Group Life Insurance, Worker's Compensation, and Unemployment Compensation).

3. Items of Note

School Department Budget- The School Department budget is more fully detailed below. This Department has a number of increases in personnel. These requirements are mostly driven by the need to fulfill state and federal mandates in regard to Special Education ("SPED") and, to a lesser extent, to cope with enrollment increases at the High School.

Group Health- The financial turmoil among the health care industry continues to lead to significant increases in costs. For FY03, Harvard Pilgrim Health Care has notified the Town of a 15% premium increase. The Blue Cross/Blue Shield number, which is a self insurance plan and based on actual experience, is only expected to rise by 5%. However, due to early retirements and some increase in the number of school department employees, the number of Town employees in the group health plans continues to grow. Teachers, who retire early, remain on the Town's health insurance until they are old enough to qualify for Medicare. At the same time the new teachers hired to replace them enroll in the health care plans. We may again see large growth in the cost of providing quality health insurance as that industry continues to struggle to contain costs.

Collective Bargaining- The teachers contract carries over through FY03. Collective bargaining is underway with the other unions in town. A tentative agreement has been reached with AFSCME. Further contracts are not likely to be ratified until after Town Meeting.

Trash Fee- The Town Administrator has recommended that the trash fee charged to homeowners be raised from \$165 per household annually to \$195. Since this fee was reduced after the 1994 Override, the cost of trash collection has continued to rise much faster than inflation. After the override reduction, property tax subsidy of trash collection was at the 19.96% level. It is now at 36.07%. Although many do not like any increases to this fee, since garbage collection as part of your property taxes is deductible on federal income taxes and as a fee it is not. However, the increase would bring the Town an additional \$360,000 in revenue that would be split 50/50 by the Town and School Departments. This new revenue may be absolutely imperative next year if the local aid from the State continues to decline. The Advisory Committee urges the Selectmen to continue to consider this matter.

IT Department- The Town is presently entering into a major reorganization of its Information Technology assets and will be hiring a Chief Information Officer whose job it will be to integrate the computer and other technology assets of both the Town and School Departments to avoid duplication and make everything run more smoothly. This is the initial phase of implementation of the Town's IT Strategic Plan as developed by our consultants, Pacific Technologies, Inc.

Other- The Town is able to put an additional \$311,225 into the Affordable Housing Trust Fund in FY03, even with the State budget cuts. That fund currently has \$1.7 million. The other necessary new initiative is \$227,000 for Emergency Preparedness for equipment and training, which was prompted by September 11, and is funded outside of the General Fund.

D. Conclusion

Although this was the most difficult budgeting year we have experienced in some time, the effect of the \$1.5 million cut in local aid from the state has been handled in a relatively painless manner, without layoffs or substantial program cuts. This was due in large part to the fiscal management policies that the Town adopted several years ago, which have resulted in more budgeting certainty, a healthier infrastructure, and better long-range planning.

The newly rehabilitated Police/Fire Headquarters is now open and that project went well. Later this year, the renovated and enlarged Library will reopen. The Lawrence School renovation is still in the planning phases.

The Advisory Committee, by a unanimous vote, recommends FAVORABLE ACTION on the Fiscal 2003 budget as presented by the Town Administrator.

II. SCHOOL BUDGET

Reminder

Town Meeting has only the authority to approve or disapprove the total of funding from Town sources for the Schools. State law vests the School Committee with the authority to then determine how that money and other funds, such as grants that do not come from the Town, shall be allocated within the budget. Therefore, the following information, to the extent that it relates to specific items with the School budget, is given to you for informational purposes to help you determine whether the final total is appropriate.

A. Unsettled Economic Ground

This year's budget reflects the reality of the current economic climate. Revenues are down, and towns and cities across the Commonwealth must adjust. While Newton and Weymouth and the City of Boston face the prospects of laying off teachers, reducing programs and increasing class size, Brookline is relatively healthy and our School Department is working to hold ground gained in the last few years.

John Rogers, Chairman of the House Ways and Means Committee, made it clear that towns and cities should anticipate a 10% reduction in aid. This, as other revenue sources decline as well. The Brookline School Department has crafted its budget on a presumed 10% reduction in State aid, and has budgeted with the anticipation of some reductions in grants.

B. Budget

The School budget, broadly speaking, is comprised of the General Fund of \$52,460,813 (up 3.45%), and Special Funds of \$ 9,536,998, for a total of All Funds of \$ 61,997,811 (a 3.2% increase). **Town Meeting is asked to vote an appropriation of \$52,000,463**, which includes override funds but excludes revolving funds and a contribution from Adult Education.

Anticipated New Funds

A total revenue increase of \$ 2,510,500 is comprised of the following:

- Net new funds at 10% State reduction \$ 1,736,636
- FY '02 carry over (anticipation of collective

bargaining obligations)	400,000
▪ Adult Education – one time contribution	150,000
▪ Federal IDEA SPED grant	181,864
▪ Federal Bilingual grant	<u>42,000</u>
TOTAL NEW FUNDS	\$ 2,510,500

Expenditure Off-Sets

The General fund increase \$2,510,500 is balanced as follows:

▪ Mandated Growth	
* SPED growth	584,897
* Bilingual growth	42,000
* Collective bargaining @ 4% FY '03	1,734,074
 Reductions	
* Elementary Review	(248,832)
* Principals' Review	(107,039)
* High School Review	(46,000)
▪ Programmatic Priorities	219,000
▪ Contingencies	
* Health Protection Grant	108,000
* Enhanced School Health Grant	90,000
* METCO 8% reduction	75,000
* Kindergarten Grant @15%	59,400
 TOTAL OFF-SET	 \$ 2,510,500

C. Personnel

As with the Town's budget, personnel costs make up the lion's share of the School budget (approximately 84%). Total staff in FY03 is 858.74 FTE's (Full Time Equivalents) (General Fund) and 1,018.28 FTE's (All Funds). A decrease in the General Fund and an increase in External Funds yield a net total increase this year of 2.24 FTE's. Finding it beneficial both academically and financially, the School Department has tried to make use of aides and technicians. This approach provides good teaching support and helps hold down the average cost per FTE. For FY2003 aides/technicians comprise 18.73% of staffing under the General Fund and 20.13% of All Fund staffing. This is an increase over last year's (FY2002) percentages (16.89 and 19.2 respectively).

Last year the School Department stressed the need to increase FTE's for Vice Principals due to greater administrative responsibilities placed on Principals by Education Reform. The increase in Vice Principal FTE's reflects this and the FY2003 budget allows for at least 0.6 FTE's Vice Principals at each of the schools.

Personnel trends in the School Department are indicative of a changing landscape, particularly since 1995. Instructional staffing levels (including kindergarten) are about what they were a decade ago. Administrative support staff has been fairly flat during that same time frame. Where there have been noticeable increases in staffing is in the "mandated" category. These are positions required under such things as SPED and Bilingual Programming and Education Reform. The School Department, if not morally bound, is legally bound to staff these positions to support mandated programming.

Significantly effecting the personnel picture is a restructuring of the central administration and a realigning of Information Services in concert with the Town's IT initiative, discussed below.

D. Central Administration Reorganization

With the new Superintendent (Dr. Richard Silverman) came a new perspective on ways to improve productivity and efficiency. Proposed in the FY2003 budget is a new position of "Assistant to the Deputy Superintendent" (to be funded mid year). The role of this person is to undertake program assessment, evaluation and development. While much is made of the fact that no child shall go untested, we haven't yet assessed what the tests tell us. Part of this person's role will be to evaluate testing data to help determine how we should modify and enhance teaching and curricula. This position, along with the Program and Curriculum Coordinators and Assistant Superintendent of Student Services, will report to the Deputy Superintendent for Teaching and Learning.

Senior positions have also been redefined and reporting lines reorganized to better encompass associated issues and services under single primary reports. This should provide better administrative cohesion and integration within the entire school system.

E. Retirements

This year it is anticipated that 18 teachers will retire, some early, which has a variety of potential ramifications. The most obvious is the loss of experienced teachers. Additionally, teachers who retire early under the Massachusetts Teachers' Retirement Systems, Chapter 114, become eligible for Town-funded health insurance coverage. These costs will contribute significantly to the Town's total cost of carrying retirees (approaching \$7 million over the next few years). Additional costs are added, as new teachers are required to receive transitional mentoring. \$40,000 added in FY2002 to the FY2001 base of \$13,600. The School Department anticipates

increasing this in FY2003 should Federal Funds become available. The notion that replacing senior teachers with lower salaried new hires can reap cost saving is not clear.

F. Revolving Funds (Perpetual Motion Machines)

Both the Town and Schools have established Revolving Funds. This is not so much an attempt to flout the laws of thermodynamics, as a way of providing self-funding mechanisms in those programs that charge fees. The Schools have a variety of revolving funds. These include the School Building Revolving Fund (that collects fees from private and community groups that use of school facilities), the School Lunch Revolving Fund, the Athletics Revolving Fund (that receives athletic fees and home game gate receipts), and the Tuition Revolving Fund.

Because of the kinetic nature of these funds, it is sometimes difficult to obtain an accurate financial snap shot. However, the Advisory Committee found it particularly concerning that there was an approximate \$500,000 deficit in the School Lunch Revolving Fund due to needed capital expenditures several years ago. Ideally, revolving funds provide for capital outlays associated with their programmatic needs. Obviously not every revolving fund can be expected to be fully self funded, particularly in cases where participants may be of varying means. This is seen in the Town's pool and ice rink Revolving Funds. The schools are in consultation with the Town to schedule the debt in the school lunch program and pay it down. In addition, an effort will be made to provide for future needs within the fund.

Confusion arising from the nature of revolving funds can also contribute to unforeseen consequences. A miscommunication between the METCO office and the Grants Office led to a missed opportunity for additional one time METCO funding that would have accrued funds to the Tuition Revolving Fund. The schools have since instituted a quarterly reconciliation structure to prevent this from reoccurring.

The Town Recreation Department has a number of revolving funds and has established a clear system for presenting costs and revenues for each program. The Subcommittee feels it would be beneficial to everyone if the School Department devised a similar approach to presenting the financial status of its revolving funds.

G. Technology

The Town has initiated a bold overarching, multi-year project to restructure Information Technology in Brookline to provide better support and integration throughout the system. Logically, the plan is to integrate both the School and Town systems. To support the initiative, the School Department will reassign 3 full time positions, transferring them to the new Town/School Department. A help desk and central system support (switching, networking, infrastructure) will be established for both the Town and School Systems.

A challenge is that the schools and the Town have many different needs, and approaches to them. At the administrative level the schools have been migrating to a “Wintel” platform. The academic desktops; however, remain primarily Apple due largely to the great variety and availability of academic software developed for that operating system.

The schools continue to apply \$400,000 from the 1994 override to technology. Last year the budget base was increased with an additional \$150,000 toward instructional technology. As the use of technology continues to increase, so will the resources needed to support that increased use. Brookline is no stranger to technology. We were designated a Lighthouse District for Technology, part of the State’s pilot project MEET (Massachusetts Educators Empowered with Technology) and a participant in TIE (Technology in Education).

There continues to be thoughtful debate as to the appropriate use of technology in learning. Issues of how much, in what setting, and how early to introduce technology are debated. The schools are continually mindful that technology is not a substitute for creative thought or reason and that proper integration of technology is critical. The schools have made concerted efforts to train and educate staff in thoughtful and appropriate approaches to productively integrate technology into the curriculum. The realignment of staff and initiation of the IT project underscore the commitment to a cohesive approach. This has both academic and financial implications and will take time, effort and a thoughtful appraisal of needs versus wants to decide how to allocate limited resources.

What was particularly noticeable to the Committee was that the schools engage in a two year lease-to-purchase for their desktops while the Town rotates PC’s on a four-year straight lease arrangement. The notion that there may be an advantage, both in cost and service, to going with the straight four-year lease was discussed. The School Department indicated that it intends to explore various leasing and purchasing options.

H. Special Education (SPED)

State and Federal mandates require that we make SPED provisions for students between 3-22 years of age. These include provisions for education, medical and transportation expenses, as well as out of district tuition. SPED costs have a significant affect on the school budget, and this year’s SPED-mandated growth is budgeted at \$584,897. Encompassed in this figure is \$173,186 for staffing (7 FTE’s), \$200,000 in contingency reserve, \$75,000 increase in transportation and \$136,711 in increased out of district costs. Out of district tuition (80 students) is budgeted at \$3,433,894 for FY2003. This reflects our costs after the State’s 50% commitment. When all costs are factored in the total SPED budget for FY2003 is \$12,600,00 (24% of the total General Fund Budget). This number includes the medical and transportation costs associated with the SPED program. SPED programming serves over 1100 of our nearly 6000 students at some level. Compressed, these students equal approximately 350 FTE students.

The School Department endeavors to mainstream students in the least restrictive environment. It is often, though not always, less expensive to keep students in-house rather than enroll them out of district. Better integration of regular and special education programs is part of the purpose of the central administration reorganization.

Last year, by adding a SPED administrator to the High School, the School Department was able to create a new administrative structure town-wide. This appears to be working favorably. The BHS Headmaster would also like to initiate a new tutorial/mentoring program at the High School that would support students who may otherwise have to be served by SPED programming. The 21st Century Fund offered to fund the initial phase. Creative ideas such as this will need to be constantly considered. Regardless of our approach, SPED costs have dramatically outpaced other costs (46.8% growth over 5 years) driven largely by the greater severity and need of children entering our system.

Additionally, there continues to be a legal/political/financial shell game that requires us to spend educational funds on medical/social services. Until there is a legislative and funding structure that provides accurate financial accounting for our legal/moral obligations, the costs will continue to appear in education budgets.

I. Buses/Safety

In the fall of '01 Town Meeting voted in favor of a resolution calling for a three-point restraint system on school buses. The School Department has put a new bus contract out to bid that includes a requirement for restraint systems. It is not clear what systems are available, and the Federal government has not yet issued safety guidelines. Proposals have yet to be received but the FY2003 budget includes an additional \$50,000 (20% increase) for this provision.

J. Grants

Approximately 15% of the school's staff are supported by external funds (grants and revolving funds). This year the schools will benefit from some additional federal grant money: \$119,988 for Title 1, which includes a new grant from the "No Child Left Behind" Act of 2001, \$42,000 for bilingual, \$57,280 for professional development, and a \$181,864 IDEA grant for SPED. However, the school budget includes \$332,400 in contingencies in anticipation of reduction in State grants. Reductions are feared in the Health Protection grant (tobacco money), Enhanced School Health grant (funds school nurses), METCO, and Kindergarten Enhancement grant. There is also unease about the number and value of grants expiring in the next few years. Of note are the Freeman Foundation grants and the State Kindergarten grant.

The Freeman Foundation grants provide for foreign language programming at the Driscoll School (expiration '03) and three other schools (expiration '04). The School Department has worked toward providing world language at an earlier age and the ease and benefit of early second language acquisition is pronounced. The school's commitment to this will be substantially

affected by a loss of these grants and their continuation, will likely be predicated on additional funding originating from our community.

The State Kindergarten Enhancement grant (\$366,069 expiring '03) funds the extension of the kindergarten day. Should the State discontinue this grant, we will need to allocate funds from other parts of the budget if we intend to maintain the longer day.

While real pain is not being felt in this budget year, there is some justifiable wincing at the prospect of the Band-Aid being torn off later.

K. Chapter 70 Aid

Chapter 70 provides meaningful aid to our school budget (\$6,152,559 FY2002). Looking forward, it is hard to predict what Chapter 70 aid will be. The Governor's budget originally proposed a \$100 million increase. Utilizing the new Education Formula, Brookline's share of Chapter 70 funds would be \$5,82,417. However, the Governor's increase has been revised down to \$60-70 million since January. It is unclear, therefore, how the Chapter 70 funds will be affected.

Last year a commission recommended revising the Education Formula with more emphasis on a community's ability to pay. Relatively wealthy communities such as Brookline will be adversely effected. To compensate, the budget contains Chapter 70 Hold Harmless funds. Brookline should enjoy a \$270,142 benefit from this line item; however, we do not expect these funds to be in the budget beyond FY2003. In that case, Brookline should expect to see a significant reduction in Chapter 70 aid come FY2004.

L. Summary

Though we have concerns about the missed opportunity for one time METCO funds, and a desire for greater clarity and reporting in the Revolving Funds, we recognize the tremendous undertaking the School Administration has of tracking, balancing, and presenting an enormously complex budget. We also note the School Department's continued push to be innovative in such areas as the administrative reorganization, realignment of Information Services, and contemplated development of a tutorial/mentoring program at BHS. While Brookline's per pupil spending is not the highest in the State (19th), our School Department is in the vanguard of public education and continues, as a priority, to keep class sizes down.

Brookline has not yet felt the blows that other towns and cities have, but we have already had to make restrictive decisions. It should be mentioned that the schools increase in mandated costs exceeded the increase in funding. Reductions were made thoughtfully and firmly in order to balance this year's budget. As well, contingencies for steps and lanes and enrollment had to be foregone. The task at hand, and presumably for the foreseeable future, is to maintain services and hold the ground gained in the last several years. We hold our collective breath in anticipation of

what will happen with our State and local budgets. Meanwhile, the School Department offers an FY '03 budget that skillfully and diligently controls programmatic costs to live realistically within this year's appropriation. The School Department's commitment to our children and our community is thoughtfully reflected in its budget document.

Recommendation

The Advisory Committee **unanimously** recommends **favorable action** on the School Department's FY2003 budget request.

ADVISORY COMMITTEE'S
SUMMARY OF CAPITAL IMPROVEMENTS PROJECTS

45. PUBLIC BUILDINGS FURNISHINGS & EQUIPMENT \$150,000. (T)

Furniture throughout Town Hall needs to be replaced due to its age (40 yr), and new partitions are needed on various floors of Town Hall.

46. ASBESTOS REMOVAL \$ 50,000. (T)

This appropriation, which will be requested every year through FY 2006, will allow for the removal of asbestos 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.

**47. BUILDING DEPARTMENT HAND HELD INSPECTION DEVICES \$32,900. (T)
HEALTH DEPARTMENT HAND HELD INSPECTION DEVICES \$23,500. (T)**

This is to tie the inspectors into the PERMITS PROGRAM from the onsite visits that they make in the field. It will allow the inspectors to download their inspections for the day into this hand held reporting device prior to leaving the office. Once on the job site it will allow the inspector to fill in his or her report from the job site into this hand held device, this will include any comments that are usually made, any and what type of inspection was made and the result of such inspection and any follow up information that may be useful for the next inspection. This will allow the inspector to download this information into the PERMITS PROGRAM when the inspector returns to the office. This downloading will immediately bring the PERMIT PROGRAM up to date. This will not only keep the PERMITS PROGRAM up to date but it will also save an enormous amount of time that is now spent at the end of each day updating the PERMITS PROGRAM by hand.

48. ADA RENOVATIONS-TOWN/SCHOOL \$ 55,000. (T)

This annual program of ADA improvements, is requested in order to bring the Town's buildings into compliance with the Americans with Disabilities Act (ADA), which requires that the Town make public buildings accessible to all. These funds will be used on buildings that are not part of currently planned major renovations or new projects.

49. MUNICIPAL SERVICE CENTER – REPAIR/SEAL FLOOR \$ 300,000. (T)

This funding is for structural improvements to the elevated floor slab at the Municipal Service Center. This area of the building is used to park and store heavy equipment used by the Department of Public Works. The existing floor is cracking and structural repairs are needed to prevent further deterioration. Currently the plan contemplates addition of a 3” concrete topping overlaying a membrane waterproofing system. The goal is to provide serviceability and reduced maintenance.

50. BUILDING SECURITY \$ 52,300. (T)

This project is for small-scale improvements to all Public and School Buildings. On light of September 11, 2001, there has been a need to improve the general security of all buildings in Town. Over the last few years, there have been any large capital projects that have improved the situations at most of the buildings. This program will accentuate this and add to those areas where security may be lacking.

In general, the plan calls for making all the doors around the perimeter of a building more secure by either replacing the doors, frames and door handles, locks or modifying them. Only the front main entrance of the building would allow for general access. This door would have an electric lock and only be allowed to open on a specific schedule or with a keypad.

At the front door a speaker will be added to will interconnect to the building’s existing intercom or phone system for those persons who are visitors. A doorbell will be added as well.

The lighting around a building will also be improved and added to. The lights will be, if not already, added to 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. This is a first step at providing some assurances to the staff in the main office as to who is located at the front area of a building and to provide some means of recording activities.

The School buildings would be a priority. Most schools are in good condition but from observations and assistance from the Police Department, things can and should be improved.

51. HEALTH DEPARTMENT RENOVATIONS \$ 55,000. (T)

The Health Department Building (Stephen Glover Train Memorial Health Building) located at 11 Pierce Street needs a complete interior renovation to better meet modern needs and requirements. One key component of this project is the more efficient utilization of the unused space in the building.

52. COMPREHENSIVE PLAN \$ 180,000. (T)

The consultant, in conjunction with the Comprehensive Plan Committee, will be responsible for preparing a preliminary or draft Comprehensive Plan, based on the issues, opportunities, visions,

goals and principles previously identified. The preliminary Comprehensive Plan will define policies, recommendations/objectives and strategies related to the key focus areas and topical of thematic areas identified through the previous tasks. The preliminary Plan will be produced in a format that will be clear, concise and implementation oriented. The preliminary plan will be developed to facilitate the formulation and scheduling of annual, five and ten year implementation actions, projects, programs and responsibilities. The preliminary Plan will be produced in a format that will facilitate community review and comment. The consultant, working with the Comprehensive Plan Committee, project manager and the Director of Planning and Community Development, and Town planning team will be responsible for preparing the final comprehensive Plan.

53. FACADE IMPROVEMENT PROGRAM \$ 10,000. (T)

The facade improvement program will provide seed money to fund low cost loans to businesses to help finance storefront improvements. As the loans are repaid, new improvements will be financed. Many main street areas have used similar programs to foster a general round of improvements in local business districts.

54. REPLACE FIRE ENGINE #5 \$ 325,000. (T)

This 1984 1250 GPM Mack Pumper will be 21 years old when replaced in FY 2005. Mack is no longer in business making repair parts difficult to find. Present day apparatus does not last as a first line pumper for much more than 15-20 years. By replacing apparatus after 20 years, the department can use the pumper as a spare for an additional five years.

EMERGENCY MANAGEMENT RESPONSE \$ 108,000. (G)

The Emergency Operations Center (EOC) is the key to successful emergencies response operations. With decision-makers together at one location, manpower and resources can be utilized more effectively. Coordination of activities will ensure that all tasks are accomplished with little duplication of effort. During emergency situations certain departments will be required to relocate their center of control to the EOC. During large scale emergencies the EOC will become the seat of government for the duration of the crisis

55. FIRE TRAINING BUILDING & GROUNDS \$ 30,000. (T)

The fire training buildings yard is in need repair. These funds will be used to re-grade and re-surface this training yard area.

56. FIRE STATION A/C UNITS \$ 20,000. (T)

These funds are to be used to install air conditioning units in Fire Station living quarters.

57. SCHOOL ZONE SIGNAL REPLACEMENT PROGRAM \$ 30,000. (T)

School zones have signals that flash during designated school hours to warn motorists to reduce their speed to 20 mph. The school zone signals were installed in the late 1970's. The equipment

will be approximately 25 years old in 2003 and should be replaced in a timely manner to ensure continued safe operation.

58. STREET REHABILITATION – TOWN \$1,062,000. (T)

One of the goals of the Public Works Department is to bring the condition of the streets in the Town to a point where only periodic maintenance is required to keep the streets in good condition. With the pavement management program, the Department is able to establish a program to reach this goal.

59. STREET REHABILITATION – STATE \$ 254,000. (G)

The State provides monies under the Transportation Bond Bill for the Maintenance of certain streets under the Chapter 90 program. About 1/3 of Brookline's streets are eligible for 100 percent State reimbursement.

STREET REHABILITATION – CD \$ 219,720. (CDBG)

Certain streets are eligible for CDBG funds. The Pavement Management Program identifies those streets in need. This year, Winchester Street will be done.

60. TRAFFIC CALMING STUDIES & IMPLEMENTATION \$ 217,094. (T)

Traffic calming studies have become a major request for the Transportation Department. To date, Walnut Street, Winchester Street, and Reservoir Road have been identified as streets to be studied for traffic calming measures with the funds. The demand for studies has exceeded the funding. These appropriations will fund both the studies and implementation of the results.

61. SIDEWALK REPAIR \$ 100,000. (T)

Within the last year, the DPW has received many complaints about the condition of the sidewalks. Some of the sidewalks are reconstructed as part of the street reconstruction program. However, this cannot keep up with the demand to replace deteriorated sidewalks. A consultant is inventorying and prioritizing the sidewalks so that a replacement program can be put in place.

62. STREET LIGHTING REPLACEMENT PROGRAM \$ 100,000. (T)

The Town owns and maintains all street lights throughout the entire Town. Wiring and conduits need modernization and many of the fixtures need replacement. This is an on going program of replacement and repair.

63. PATH RECONSTRUCTION \$ 100,000. (T)

The Town maintains 11 public paths. The paths receive a heavy and concentrated use, which during the winter months, requires that the Town apply de-icing materials. These de-icing materials result in deterioration of the concrete stairs and metal handrails. Recently, several paths in the CDBG eligible area have been reconstructed. However, there are still several paths outside of the CDBG area to be reconstructed including Addington Path, Colbourne Path, Winthrop Path, and University Path.

64. CHESTNUT STREET DRAIN/WILLOW POND ENVIRONMENTAL \$ 35,000. (T)

With the transfer of the property at 40 Kendall Street the responsibility of remediating that site now belongs to the current owner however, Willow Pond still remains to be remediated which is the responsibility of the Town. Willow Pond is scheduled to be remediated with the Muddy River Flood Mitigation project but until that time the Town must monitor the Chestnut Street drain which discharges to Willow Pond. This appropriation is for environmental consulting services to monitor and report the results to the Department of Environmental Protection.

65. AMORY PARK ENVIRONMENTAL STUDY \$ 80,000. (T)

During the investigation for the suitability of soil to support a drainage system in Amory Playground, material bituminous material in the soil was found which requires it to be evaluated according to DEP regulations. The environmental regulations that 1) the site be "tier classified" which determines whether the site will fall under the direct oversight of DEP or under a Licensed Site Professional hired by the Town, 2) a preliminary assessment be done to determine the extent of the contamination, 3) a comprehensive site assessment to be done which, among other things, will determine if remediation is required and what methods might be employed.

66. LARZ ANDERSON PARK \$ 127,000. (T)

A master plan for the long-term rehabilitation of Larz Anderson Park was approved by the Town in 1988 and defined the work for three phases. The first phase was completed in 1990. Since that time, other improvements have been made, including a new entrance to the pavilion. This proposal is to begin work on the next phase of rehabilitation, a multi-year project to rebuild and repair the perimeter wall beginning at the corner of Goddard Avenue and Newton Street. The historic garden wall is an important landscape element, which also serves as an important sound barrier between the busy street and the park. The reconstructed wall will serve as a prototype for the rebuilding of the many other walls inside the park. Matching state funds are also available.

67. PARKS, PLAYGROUNDS REHABILITATION & UPGRADE \$ 250,000. (T)

This amount allows for removal and replacement of older unsafe play equipment and spot repairs at various locations in an ongoing program. This is a town-wide program for the repair and replacement of fencing, benches, and minor field improvements. This program will prevent more expensive rehabilitation, which will be necessary if these items are continuously ignored.

68. TOWN/SCHOOL GROUNDS REHAB \$120,000. (T)

The grounds around many of the Town's school and municipal buildings have deteriorated over the years and are in need of significant landscaping restoration work.

69. LONGWOOD PARK (Lawrence) \$ 67,000. (T)

Improvements proposed include rebuilding playfield, rehabilitating older children's playground, rehabilitating center playground area, and grading and landscaping the Longwood entrance area.

70. BAKER SCHOOL FIELD IMPROVEMENTS \$47,000. (T)

The capital money in this line item is intended to remedy poor drainage around the outfield perimeter of softball infield with proper grading. In addition, it will address a low area causing poor drainage along a 35' x 196' area along playground and basketball court edge of the field. The field is infested with annual weeds. All existing grass and weeds will be removed and the field will be re-graded to correct existing problems. Concrete pads, fence and benches would be installed. New sod will be installed in both infield and outfield.

COOLIDGE PARK \$ 200,000. (CDBG)

This small park (73,000 square feet or 1.68 acres) in a highly dense area is in acute need of upgrading. The play equipment is outdated and does not meet safety and handicap access codes and does not meet handicap access codes. The walkway system needs to be replaced. Also landscaping and lighting must be addressed.

**71. TREE REMOVAL AND REPLACEMENT \$ 100,000. (T)
\$ 30,000. (CDBG)**

The tree removal and replacement project represents the Tree Planting Committee's effort to balance the Town's street tree planting with removals. As other funding diminishes, it is crucial to expand the Town's commitment to plant the much-needed trees. CD funds will be used in CD eligible areas only.

72. LOST POND SANCTUARY \$ 25,000. (T)

Lost Pond Sanctuary is contiguous to the Metropolitan District Commission conservation land and City of Newton conservation land. The inter-connected trails form a network for passive recreation and nature appreciation. There is a need for site, access, and connectivity improvements. Improvements will be coordinated with the City of Newton, MDC, and the Land Use Study for the Town landfill that is adjacent to this property. Improvements include: trail improvements, signage, access, maps, and control of invasive vegetation such as phragmites and purple loosestrife. The work will be coordinated with the landfill closure and re-use plan.

73. HEMLOCK TREE ASSESSMENT/REMOVAL DUE TO INSECT PESTS \$40,000. (T)

The funds requested are for the assessment, monitoring, and management of the Hemlock trees in Brookline including hazard tree removal. In Brookline, natural stands of hemlock occur on public open spaces at Baker School, Dane Park, D. Blakely Hoar Sanctuary, Larz Anderson Park, Public Works Municipal Center, Putterham Woods/Golf Course, the Soule Recreation Center, and the Walnut Hills Cemetery. Approximately 3,380 Eastern Hemlock trees are located on Town properties. The majority of Hemlock trees in Brookline are at the D. Blakely Soar Sanctuary (1,220) and Putterham Woods (1,286). The tree is also found on many private properties throughout Brookline. The Woolly Adelgid is a parasitic insect that threatens to extinguish the Eastern Hemlock tree in the Eastern United States. To date, there are limited solutions to save the Hemlock species. Many of the Eastern Hemlocks have been infested with the Woolly Adelgid and, without treatment, may die. A large number have already died and pose a safety hazard.

74. WALNUT HILLS CEMETERY UPGRADE \$ 65,000. (T)

The Walnut Hills Cemetery has undergone a Landscape Master Planning process over the past year. The Master Plan has identified both long-range and immediate capitol improvements that are required at the Cemetery. The first priority identified is to provide a stone wall and gate along Grove Street . The intent is both separate from the surrounding residential neighborhood and busy-noisy street, but also to provide the security and control necessary to maintain the cemetery. The Ceremonial entrance stonewall and gate will be the model for this main entrance. The second priority is to restore the ceremonial entrance and provide tree and shrub planting/landscaping. In addition, the Cemetery needs benches at various identified locations throughout the property, and to replace the existing holding tomb with a columbarium.

75. SMALL GREEN OPEN SPACES/STREETSCAPES \$ 50,000. (T)

A significant greenspace resources that is no reflected in the traditional park inventory is the streetscape, including traffic medians, circles, squares, triangles and other open land. Following the Ryder Cup, there has been a heightened demand to improve these visible greenspaces throughout the Town. The monies allocated in this item are for the establishment of landscape designs with native plants, irrigation, restoration and structural improvements to these spaces. The intent of the program is to be partially funded for maintenance and small improvements by a "Beautify Brookline/Adopt-a-space" program being initiated by the DPW and Parks and Recreation Commission. In addition, this money will provide landscape improvements and amenities along streetscapes.

76. TENNIS COURTS \$ 100,000. (T)

There are 32 tennis courts throughout the Town. Three (3) locations have been identified for rehabilitation in FY 2002. Rehabilitation work will include fence replacement or repair, resurfacing of the courts, and new net posts with foundations.

77. SWIMMING POOL \$ 100,000. (T)

These funds will be used to replace the Swimming Pool lockers which is in the original program of upgrading this facility.

GOLF COURSE PHASE III AND CLUBHOUSE **\$ 880,000. (B)**

Work to be done in Phase III includes rebuilding of tees and greens at numerous holes throughout the course, renovation of the irrigation and remote control systems, renovation of numerous sand bunkers, the rehabilitation of various cart paths, and a study of the drainage problems to identify possible solutions. A large portion of the design work for Phase III was completed in Phase II. Also, improvements to the interior of the clubhouse will be started. The initial work will include ADA compliance elements and the installation of a new heating system.

SCHOOL ADA IMPROVEMENTS	Elevators Driscoll	\$130,578. (CDBG)
	Elevators Pierce	\$182,022. (CDBG)

These funds will be used to install elevators in the Driscoll School and the Pierce Primary. This will bring these two schools into compliance with the American with Disabilities Act of 1995

78. HIGH SCHOOL GYM **\$150,000. (T)**

These funds are requested in order to install netting on the 4th floor of the GYM building in order to protect the exterior windows and walls and to improve safety.

79. PIERCE SCHOOL BATHROOMS **\$ 115,000. (T)**

These funds will be used to upgrade the bathrooms in the Pierce Primary. This will also complete the ADA requirements for this School.

80. PIERCE SCHOOL HVAC **\$ 900,000. (T)**

This project includes the repair of ventilators and replacement of some windows so that they can be opened. It will replace HVAC equipment to provide for more fresh air, better climate control, and zoning. This building was originally designed to be used with an air conditioning system and not to have operable windows. The air conditioners are not used thus we need to be able to open the windows to allow fresh air into the building. This would allow the forced air handlers to be shut down during certain weather conditions.

81. WATER METER REPLACEMENT **\$ 50,000. (Ent. Fund)**

These funds are to purchase and install approximately 9500 residential and commercial water meters to replace the existing metering system with state-of-the-art radio frequency transmitter remote reading meters. The useful life of the existing meter system is 15 years and it was installed in 1985. Installation of this new system will allow meters to be read from a central computer without the need to access each property and will provide the Town with the ability to bill monthly instead of quarterly for water and sewer service.

82. WATER SYSTEM HYDRAULIC ANALYSIS **\$ 150,000. (Ent. Fund)**

With the completion of the water main rehabilitation project, it is desirable to perform an updated hydraulic analysis of the water distribution system. The engineering analysis will be done by a

consultant engineer and will include the required flow testing of the system and the development of a computer model of the system.

83. SINGLETREE TANK REHABILITATION \$100,000. (Ent. Fund)

The water distribution system provides storage and operating reserves through the Singletree Hill water storage tank. Scheduled maintenance requires that the interior of the steel tank be painted every 10 years and the exterior be painted every 8 years. The interior was last completed in 1990 and the exterior in 1993. In order to continue the required maintenance on this 60 year old structure, this two year project includes painting both the interior and exterior surfaces of the tank in successive years.

84. STORM DRAIN IMPROVEMENTS \$1,000,000 (Ent. B)

These funds are for the investigation, remediation and rehabilitation of storm drain systems to remove potential sanitary sewer connections and to improve system capacity and discharge water quality. Funds expended to date have completed the remediation of the Longwood, Tannery and Village Brook systems as required by a Consent Agreement with EPA. Funds proposed for FY 2003 and FY 2005 will be used to implement the recommendations of the Wastewater Systems Master Plan and complete the investigation and remediation of the remaining seven drainage areas.

85. DRISCOLL SCHOOL \$ 375,000. (B)

This request is primarily for new unit ventilators. Current HVAC equipment is over 50 years old and in very poor condition. Other significant elements of this request include \$350,000 to upgrade the cafeteria. The existing cafeteria space, part of the 1910 building, has been in disrepair for some time. The floor layout and use of space will be reorganized and better utilized. Also, this project will replace windows and improve safety maintenance and upkeep. Finally, the entire school will be painted.

VOTED: To approve the budget for fiscal year 2003 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 only by vote of Town Meeting. 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) Transfers of more than \$5,000 to or from the appropriation for any item within the capital outlay object classification or repairs to public building appropriations within the Building Department appropriation.
 - v) Transfers within the Department of Public Works from the Parks Division to any other purpose.

- C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and 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 written notice of each such approval shall be submitted promptly to the Advisory Committee.

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 FY2003 budget, and to solicit and award contracts for terms of more than three 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 #44) 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 Personal Services Reserve, 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.) SALARIES OF ELECTED OFFICIALS: The salaries of members of the Board of Selectmen shall be at the rate of \$3,500 per year for the Chairman and at the rate of \$2,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of \$78,651 effective July 1, 2002, plus any adjustment approved by vote of the Board of Selectmen. The Town of Brookline shall pay all fees received by the Town Clerk by virtue of his office into the Town treasury for use.

5.) VACANT POSITIONS: No appropriation for salaries, wages, or other compensation shall be expended for a position which has become vacant during the fiscal year unless the Board of Selectmen, at an official meeting, has determined that the filling of the vacancy is either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.

6.) GOLF ENTERPRISE FUND: The following sums, totaling \$1,335,760 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	\$225,763
Purchase of Services	\$559,504
Supplies	<u>\$ 70,585</u>
Total Appropriations	\$855,852
Indirect Costs	\$479,908
Total Costs	\$1,335,760

Total costs of \$1,335,760 to be funded from golf receipts with \$479,908 to be reimbursed to the general fund for indirect costs.

7.) WATER AND SEWER ENTERPRISE FUNDS: The following sums, totaling \$19,947,507 shall be appropriated into the Water and Sewer Enterprise Funds, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	<u>Water</u>	<u>Sewer</u>	<u>Total</u>
Salaries	1,645,364	220,710	1,866,074
Purchase of Services	87,656	109,719	197,374
Supplies	94,815	8,535	103,350
Other	3,600	0	3,600
Capital	145,400	94,800	240,200
Intergovernmental	<u>3,357,567</u>	<u>8,991,514</u>	<u>12,349,081</u>
Total Appropriations	5,334,401	9,425,277	14,759,678
Indirect Costs	<u>3,754,951</u>	<u>1,432,878</u>	<u>5,187,829</u>
Total Costs	9,089,352	10,858,155	19,947,507

Total costs of \$19,947,507 to be funded from water and sewer receipts with \$5,187,829 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, 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 \$700,000.
- b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2, a revolving fund for the repair and maintenance of the Town's rental properties. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed \$60,000.
- c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of: 1. sidewalks and walkways, both along public and private streets and ways, 2. private ways and 3. areas to which the public has the right of access. It shall be funded by appropriation and by the funds received from fees assessed for such improvements, with expenditures from said Revolving Fund to be authorized by the Commissioner of Public Works, with the written approval of the Board of Selectmen. Annual expenditures from the fund shall not exceed \$400,000.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of \$2,868,897, 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.) SCHOOL INFORMATION TECHNOLOGY: The sum of \$143,897, included within the Information Technology Department appropriation shall only be expended for purposes prescribed by the Information Technology Strategic Plan. The objectives for the Information Technology Department shall be established in a mutually agreed manner by the Superintendent of Schools and the Town Administrator, or their designees.

11.) INTERFUND TRANSFERS: In order to fund the appropriations voted for the various departments itemized on Table 1 and to provide funding toward the subsequent retiree healthcare obligation, the Town Comptroller is authorized to make the following interfund transfers:

Parking Meter Special Revenue Fund (to the Department of Public Works - \$1,000,000) (to the Police Department - \$1,000,000)	\$2,000,000
State Library Aid Special Revenue Fund (to the Library)	\$ 41,555
Cemetery Perpetual Care Expendable Trust Fund (to the Department of Public Works)	\$ 10,000
Cemetery Sales Special Revenue Fund (to the Department of Public Works)	\$ 40,000
Commonwealth Sewer Rate Relief Fund (to the Department of Public Works Sewer Division)	\$ 39,696
Recreation Revolving Fund	\$ 50,225
Group Health Insurance Unmatched Accrued Expense Account (to the Retiree Healthcare Liability Trust Fund)	\$ 300,000

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 45 through 85, inclusive, in Table 1 shall be specially appropriated for the following purposes:

- 45.) Raise and appropriate \$150,000, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen, for furnishings and equipment for Town Buildings.
- 46.) Raise and appropriate \$50,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removal of asbestos from Town-owned buildings.
- 47.) Raise and appropriate \$56,400, to be expended under the direction of the Board of Selectmen, for hand held inspection equipment for the Building and Health Departments.
- 48.) Raise and appropriate \$55,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for ADA renovations to Town-owned buildings.
- 49.) Raise and appropriate \$300,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for repairs at the Town Municipal Service Center.
- 50.) Raise and appropriate \$52,300, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for the purpose of improving municipal building security.
- 51.) Raise and appropriate \$55,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, to upgrade the Train Memorial Public Health Building.
- 52.) Raise and appropriate \$180,000, to be expended under the direction of the Director of Planning and Community Development, with the approval of the Board of Selectmen, for the purpose of completing the Town's Comprehensive Plan.
- 53.) Raise and appropriate \$10,000, to be expended under the direction of the Director of Planning and Community Development, with the approval of the Board of Selectmen, for a Facade Improvement Program for the commercial areas of the Town.
- 54.) Raise and appropriate \$325,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a fire engine.

- 55.) Raise and appropriate \$30,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for pavement of the Fire Training area.
- 56.) Raise and appropriate \$20,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for the design and installation of air conditioning systems at various fire stations.
- 57.) Raise and appropriate \$30,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for improvements to school zone signals.
- 58.) Raise and appropriate \$1,062,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.
- 59.) Raise and appropriate \$254,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.
- 60.) Raise and appropriate \$217,094, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for traffic calming studies and improvements.
- 61.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for sidewalk reconstruction.
- 62.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for streetlight replacement and repairs.
- 63.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for pathway reconstruction.
- 64.) Raise and appropriate \$35,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Chestnut Street drain / Willow Pond environmental controls.
- 65.) Raise and appropriate \$80,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the Amory Park environmental study.

- 66.) Raise and appropriate \$127,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Parks and Recreation Commission and the Board of Selectmen, for improvements at Larz Anderson Park.
- 67.) Raise and appropriate \$250,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Parks and Recreation Commission and the Board of Selectmen, for the renovation of playground equipment, fields and fencing.
- 68.) Raise and appropriate \$120,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town / School grounds.
- 69.) Raise and appropriate \$67,000, to be expended under the direction of the Building Commissioner, with the approval of the Parks and Recreation Commission and the Board of Selectmen, for improvements to Longwood Park.
- 70.) Raise and appropriate \$47,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Baker School field improvements.
- 71.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.
- 72.) Raise and appropriate \$25,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for improvements to the Lost Pond Sanctuary.
- 73.) Raise and appropriate \$40,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the removal and replacement of Hemlock Trees.
- 74.) Raise and appropriate \$65,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for improvements to the Walnut Hill Cemetery.
- 75.) Raise and appropriate \$50,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for improvements to small green open spaces / streetscapes.
- 76.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Park and Recreation Commission and the Board of Selectmen, for tennis and basketball court improvements.

- 77.) Raise and appropriate \$100,000, to be expended under the direction of the Building Commissioner, with the approval of the Park and Recreation Commission and the Board of Selectmen, for the replacement of lockers at the Municipal Swimming Pool.
- 78.) Raise and appropriate \$150,000, to be expended under the direction of the Building Commissioner, with the approval of the School Committee and the Board of Selectmen, for miscellaneous repairs at the High School.
- 79.) Raise and appropriate \$115,000, to be expended under the direction of the Building Commissioner, with the approval of the School Committee and the Board of Selectmen, for the Pierce School bathroom remodeling.
- 80.) Raise and appropriate \$900,000, to be expended under the direction of the Building Commissioner, with the approval of the School Committee and the Board of Selectmen, for the replacement of the HVAC system at the Pierce School, including an energy efficiency and feasibility study.
- 81.) Raise and appropriate \$50,000, to be expended to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for water meter replacement.
- 82.) Raise and appropriate \$150,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for a water system hydraulic analysis.
- 83.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the Singletree Water Tank rehabilitation.
- 84.) Appropriate \$1,000,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the construction and reconstruction of surface drains; fund the appropriation by authorizing the Treasurer, with the approval of the Board of Selectmen, to borrow \$1,000,000, under G.L.c. 44, Section 7 (1) and (22), as amended; and authorize the Board of Selectmen, or its designee, to apply for, accept and expend grants, gifts, reimbursements and aid from both state, federal and other sources therefor.
- 85.) Appropriate \$375,000, to be expended under the direction of the Building Commissioner, with the approval of the School Committee and Board of Selectmen, for remodeling, reconstructing or making extraordinary repairs to the Driscoll School, including original equipment and landscaping, paving and other site improvements; fund the appropriation by authorizing the Treasurer, with the approval of the Board of Selectmen, to borrow \$375,000 under G.L.c. 44, Section 7 (3A) (21) and (22), as amended or under G.L.c. 70B,

as amended; and authorize the Board of Selectmen or School Committee to apply for, accept and expend grants, gifts, reimbursements and aid from both state, federal and other sources therefor.

13.) **FREE CASH**: Appropriate and transfer \$5,261,797 from free cash for the following purposes:

- a.) Reduce the tax rate (Capital Improvements)- \$4,608,983;
- b.) Housing Trust Fund - \$311,225;
- c.) Liability/Catastrophe Fund - \$341,589.

XXX

ARTICLE 10

TENTH ARTICLE

To see if the Town will replace the existing Zoning By-Law with the new and restructured Zoning By-Law, dated: May 29, 2002, which new and restructured Zoning By-Law contains the Table of Contents set forth below, with copies of new and restructured Zoning By-Law being on file and available for inspection in the Town Clerk’s office, the Coolidge Corner and Putterham branches of the Brookline Public Library, the office of Planning and Community Development, Town Counsel’s office, and on the Town’s Web site, with the copy on file in the Town Clerk’s office being incorporated herein by reference, or act on anything relative thereto.

TABLE OF CONTENTS

ARTICLE I, PURPOSE AND SCOPE 1-1

§1.00 – PURPOSE AND INTERPRETATION 1-1

ARTICLE II, DEFINITIONS 2-1

§2.00 – PURPOSE AND INTENT 2-1

§2.01 – “A” DEFINITIONS 2-1

§2.02 – “B” DEFINITIONS 2-1

§2.03 – “C” DEFINITIONS 2-1

§2-04 – “D” DEFINITIONS 2-1

§2-05 – “E” DEFINITIONS 2-2

§2-06 – “F” DEFINITIONS 2-2

§2-07 – “G” DEFINITIONS 2-2

§2-08 – “H” DEFINITIONS 2-2

§2-09 – “I” DEFINITIONS 2-3

§2-10 – “J” DEFINITIONS 2-3

§2-11 – “K” DEFINITIONS 2-3

§2-12 – “L” DEFINITIONS 2-3

§2-13 – “M” DEFINITIONS 2-5

§2-14 – “N” DEFINITIONS 2-5

§2-15 – “O” DEFINITIONS 2-6

§2-16 – “P” DEFINITIONS 2-6

§2-17 – “Q” DEFINITIONS 2-6

§2-18 – “R” DEFINITIONS 2-6

§2-19 – “S” DEFINITIONS 2-6

§2-20 – “T” DEFINITIONS 2-7

§2-21 – “U” DEFINITIONS 2-7

§2-22 – “V” DEFINITIONS 2-7

§2-23 – “W” DEFINITIONS 2-7

§2-24 – “X” DEFINITIONS 2-7

§2-25 – “Y” DEFINITIONS 2-8

§2-26 – “Z” DEFINITIONS 2-8

ARTICLE III, ESTABLISHMENT OF ZONING DISTRICTS.....3-1

 §3.00 – DIVISION OF THE TOWN INTO DISTRICTS 3-1

 §3.01 – CLASSIFICATION OF DISTRICTS 3-1

 §3.02 – BOUNDARIES OF THE DISTRICT..... 3-2

ARTICLE IV, USE REGULATIONS 4-1

 §4.00 – APPLICABILITY OF REGULATIONS 4-1

 §4.01 – PERMITTED USES..... 4-1

 §4.02 – USES SUBJECT TO OTHER REGULATIONS 4-1

 §4.03 – EXISTING SPECIAL PERMIT USE 4-1

 §4.04 – LIMITATION OF AREA OF ACCESSORY USES..... 4-2

 §4.05 – RESTRICTIONS ON ACCESSORY USES IN RESIDENCE DISTRICTS 4-2

 §4.06 – TEMPORARY ACCESSORY USES 4-2

 §4.07 – TABLE OF USE REGULATIONS..... 4-3

 §4.08 – AFFORDABLE HOUSING REQUIREMENTS 4-18

 §4.09 – WIRELESS TELECOMMUNICATIONS SERVICES 4-21

 §4.10 – TABLE OF USE REGULATIONS..... 4-25

ARTICLE V, DIMENSIONAL REQUIREMENTS..... 5-1

 §5.00 – DISTRICT REGULATIONS..... 5-1

 §5.01 – LOT AREA OF YARDS REQUIRED..... 5-1

 §5.02 – SPACING OF NON-RESIDENTIAL BUILDINGS ON THE SAME LOT..... 5-1

 §5.03 – SPACING OF RESIDENTIAL BUILDINGS ON THE SAME LOT..... 5-1

 §5.04 – RESIDENTIAL BUILDING ON REAR OF A LOT 5-6

 §5.05 – CONVERSIONS..... 5-6

 §5.06 – SPECIAL DISTRICT REGULATIONS..... 5-7

 §5.07 – DWELLINGS IN BUSINESS AND INDUSTRIAL DISTRICTS 5-8

 §5.08 – EXCEPTIONS TO DIMENSIONAL REQUIREMENTS FOR USES 9 AND 10 5-8

 §5.09 – DESIGN REVIEW..... 5-9

 §5.10 – MINIMUM LOT SIZE..... 5-17

 §5.11 – CLUSTER SUBDIVISIONS, DESIGNED GROUPS OF SINGLE-FAMILY DWELLINGS, AND
 ESTATE CONVERSIONS..... 5-18

 §5.12 – LOT AREA PER DWELLING UNIT OR EQUIVALENT..... 5-23

 §5.13 – LOT WIDTH..... 5-23

 §5.14 – LOT FRONTAGE..... 5-23

 §5.15 – EXCEPTION TO MINIMUM LOT SIZE AND LOT WIDTH REQUIREMENTS..... 5-24

 §5.20 – FLOOR AREA RATIO..... 5-24

 §5.21 – EXCEPTIONS TO MAXIMUM FLOOR AREA RATIO REGULATIONS (PUBLIC BENEFIT
 INCENTIVES)..... 5-25

 §5.22 – EXCEPTIONS TO FLOOR AREA RATIO REGULATIONS FOR RESIDENTIAL UNITS..... 5-26

 §5.30 – MAXIMUM HEIGHT OF BUILDINGS 5-27

 §5.31 – EXCEPTIONS TO MAXIMUM HEIGHT REGULATIONS 5-31

 §5.32 – EXCEPTIONS TO MAXIMUM HEIGHT REGULATIONS (PUBLIC BENEFIT
 INCENTIVES)..... 5-31

 §5.40 – WALLS NOT PARALLEL TO LOT LINES 5-32

 §5.41 – BUILDINGS OF UNEVEN HEIGHT ALIGNMENT..... 5-33

 §5.42 – YARD AND SETBACK FROM OPEN SPACE, STREET OR ALLEY 5-34

 §5.43 – EXCEPTIONS TO YARD AND SETBACK REGULATIONS..... 5-34

 §5.44 – ACCESSORY UNDERGROUND STRUCTURES..... 5-35

 §5.45 – TRAFFIC VISIBILITY ACROSS CORNERS 5-35

 §5.46 – CORNER LOTS..... 5-38

 §5.47 – DIMENSIONAL REQUIREMENTS FOR COURTS 5-38

 §5.48 – ATTACHED ONE-FAMILY DWELLING IN T DISTRICTS 5-38

 §5.50 – FRONT YARD REQUIREMENTS..... 5-37

 §5.51 – PROJECTIONS INTO FRONT YARDS..... 5-37

 §5.52 – FENCES AND TERRACES IN FRONT YARDS..... 5-37

§5.53 – ACCESSORY BUILDING IN FRONT YARDS 5-37

§5.54 – EXCEPTIONS FOR EXISTING ALIGNMENT 5-37

§5.55 – FRONT YARD FOR REAR LOT 5-38

§5.60 – SIDE YARD REQUIREMENTS 5-39

§5.61 – PROJECTIONS INTO SIDE YARDS 5-39

§5.62 – FENCES AND TERRACES IN SIDE YARDS 5-39

§5.63 – ACCESSORY BUILDING OR STRUCTURES IN SIDE YARDS 5-39

§5.64 – SIDE YARDS FOR NON-DWELLING USES IN BUSINESS OR INDUSTRIAL DISTRICTS 5-40

§5.70 – REAR YARD REQUIREMENTS 5-40

§5.71 – PROJECTIONS INTO REAR YARDS 5-42

§5.72 – ACCESSORY BUILDINGS OR STRUCTURES IN REAR YARDS 5-42

§5.73 – REAR YARDS IN BUSINESS OR INDUSTRIAL DISTRICTS 5-43

§5.74 – FENCES AND TERRACES IN REAR YARDS 5-43

§5.80 – SETBACK REQUIREMENTS IN BUSINESS OR INDUSTRIAL DISTRICTS 5-43

§5.90 – MINIMUM LANDSCAPED OPEN SPACE 5-43

§5.91 – MINIMUM USABLE OPEN SPACE 5-44

§5.92 – EXCEPTIONS FOR RESIDENTIAL STRUCTURES DESIGNED FOR TRANSIENT OCCUPANCY 5-44

ARTICLE VI, VEHICULAR SERVICE USE 6-1

§6.00 – INTENT OF REQUIREMENTS 6-1

§6.01 – GENERAL REGULATIONS APPLYING TO REQUIRED OFF-STREET PARKING FACILITIES 6-1

§6.02 – OFF-STREET PARKING SPACE REGULATIONS 6-2

§6.03 – LOCATION OF REQUIRED OFF-STREET PARKING FACILITIES 6-6

§6.04 – DESIGN OF ALL OFF-STREET PARKING FACILITIES 6-6

§6.05 – BICYCLE SPACE AND DESIGN REGULATIONS 6-11

§6.06 – OFF-STREET LOADING REGULATIONS 6-11

§6.07 – DESIGN AND LAYOUT OF OFF-STREET LOADING FACILITIES 6-12

§6.08 – REGULATIONS APPLYING TO GASOLINE SERVICE STATIONS 6-13

§6.09 – REGULATIONS APPLYING TO OUTDOOR AUTOMOBILE RENTAL OR SALES AND STORAGE FOR RENTAL OR SALE 6-14

ARTICLE VII, SIGNS, ILLUMINATION, & REGULATED FAÇADE ALTERATIONS 7-1

§7.00 – SIGNS IN ALL DISTRICTS 7-1

§7.01 – SIGNS IN S, SC, AND T DISTRICTS 7-2

§7.02 – SIGNS IN M DISTRICTS 7-2

§7.03 – SIGNS IN L, G, I AND O DISTRICTS 7-3

§7.04 – ILLUMINATION 7-5

§7.05 – NONCONFORMANCE OF ACCESSORY SIGNS 7-5

ARTICLE VIII, NONCONFORMANCE 8-1

§8.01 – CONTINUANCE 8-1

§8.02 – ALTERATION OR EXTENSIONS 8-1

§8.03 – REBUILDING AFTER CATASTROPHE 8-1

§8.04 – ABANDONMENT 8-2

§8.05 – SUBSTITUTION 8-2

ARTICLE IX, ADMINISTRATION AND PROCEDURE 9-1

§9.00 – ENFORCEMENT 9-1

§9.01 – PROVISION FOR BOARD OF APPEALS 9-2

§9.03 – SPECIAL PERMITS 9-3

§9.04 – PROCEDURE FOR APPLICATION FOR SPECIAL PERMIT 9-3

§9.05 – CONDITIONS FOR APPROVAL OF SPECIAL PERMIT 9-3
 §9.06 – APPEALS FOR VARIANCE CALLING FOR ADVISORY REPORT FROM PLANNING BOARD.....9-4
 §9.07 – TIME LIMITS FOR SPECIAL PERMITS AND VARIANCES9-4
 §9.08 – NOTICE TO TOWN MEETING MEMBERS AND OTHERS9-4
 §9.09 – CONDITIONS FOR APPROVAL OF USE VARIANCE9-4
 §9.10 – EVENING MEETINGS.....9-5
 §9.11 – ADMINISTRATIVE SITE PLAN REVIEW REQUIREMENTS FOR EDUCATIONAL USES IN RESIDENCE DISTRICTS..... 9-5

ARTICLE X, AMENDMENT AND INTERPRETATION.....10-1

§10.00– AMENDMENT.....10-1
 §10.01 – VALIDITY OF ACTION TAKEN UNDER PRIOR BY-LAW10-1
 §10.02 – UNIFORMITY IN EACH DISTRICT10-1
 §10.03 – UNSAFE WALLS AND FIRE ESCAPES.....10-1
 §10.04 – VALIDITY.....10-1
 §10.05 – EFFECT OF SUBSEQUENT AMENDMENT.....10-1

INDEX [PENDING]
 TEXT AMENDMENTS..... [PENDING]
 MAP AMENDMENTS..... [PENDING]
 ZONING MAP [PENDING]

LIST OF TABLES..... [PENDING]
 LIST OF FIGURES [PENDING]

**PLANNING BOARD REPORT AND RECOMMENDATION
ON ARTICLE 10**

**ZONING BYLAW AMENDMENT TO REPLACE THE EXISTING ZONING BY-LAW AND
REPLACE IT WITH A RESTRUCTURED ZONING BY-LAW**

In accordance with Chapter 40A of the General Laws of the Commonwealth of Massachusetts, after due notice had been given, the Planning Board held a public hearing on April 4, 2002 in Town Hall on a Zoning Bylaw amendment as described below. The advertisement for the public hearing appeared in the Brookline TAB on March 21, 2002 and March 28, 2002. Copies of the notice were sent to all Town Meeting Members, neighborhood associations, Town agencies, Massachusetts Department of Housing and Community Development, Metropolitan Area Planning Council, Planning Boards of Boston and Newton, and others. The minutes of the hearing and record of citizen attendance are on file in the Planning and Community Development Department.

Introduction

The Town of Brookline is currently in the process of updating its Zoning Bylaw in accordance with recommendations put forth by a duly appointed Zoning Bylaw Commission. The process conducted by the

Zoning Bylaw Commission has resulted in a set of recommended projects and actions designed to meet a set of goals and objectives.

Warrant Article X, which proposes to amend the Zoning Bylaw for the purpose of restructuring the By-law, has been developed in conjunction with the goals and objectives of the Zoning Bylaw Commission as well as the Work Program for updating the Zoning Bylaw adopted on September 24, 2001 by the Zoning Bylaw Commission. The text of the reorganized By-law is attached as Exhibit A.

Justification for Proposed Amendment

This Warrant Article is the first of three phases of reorganizing and reformatting the Zoning Bylaw. The purpose of this three part project is to:

1. provide greater ease of use and readability
2. greater clarity and organization
3. functional coordination
4. elimination of remnants of previously deleted provisions
5. additional information and references to aid in making zoning decisions and interpretations
6. ability to post to the Internet and develop a Web version with hyperlinking and other electronic functionality

These goals were part of the original charge of the Zoning Bylaw Commission, and were included in a high priority project recommended for Spring 2002 Town Meeting by the Zoning Bylaw Commissions adopted Work Program.

This first phase of this project includes:

1. New document format and codification system
2. A revised table of contents
3. A revised definitions section
4. A revised use table
5. The addition of headers and footers
6. A clarified cross-referencing system

The new format provides:

1. An easier-to-read single column portrait layout versus the two column landscape format currently employed.
2. The font has been changed from a 9 point san-serif typeface to a 11 point serif typeface.
3. Except for definitions, which are in all capital letters, article, section, and paragraph headings have been formatted to be clear and distinctive.
4. The codification has been revised to provide a more common 1., a., 1) outline format.
5. The table of contents has been revised to list all sections and subsections and may be further enhanced in successive phases.

6. The definitions section has been revised to create section headings for alphabetically equivalent terms instead of using a section number for each defined term. This will allow additional definitions to be added without changing the section numbering system.
7. The use table has been placed in a new format that is designed to be easier to read and locate information.
8. Headers and footers were added to each page and include the document name and town identifier in the header and the section title and page number in the footer. The section title includes the section number and title while the page numbering system has been revised to include the section number followed by a hyphen and the page number within the section (e.g. 5-27).
9. Finally, each internal and external cross-reference was revised to be consistent and was formatted in bold to be clearly identifiable.

It must be noted that the proposed amendment *does not substantively change any zoning provisions*. Phases two and three will address layout elements such as margin text and graphics, the relocation of administrative and substantive elements, the relocation of articles or sections, the provision of a more detailed index, calculation formulas, development examples, and additional and revised diagrams. Also for future consideration is the use of innovative materials to allow amendments and other elements to stand out better. Strategies will be developed for the creation of new media versions of the Bylaw (CD-ROM, Internet, etc.) that will allow the seamless development of these products later in the process. The outcome subsequent to these three project phases is expected to be a Zoning Bylaw that will be significantly easier to read and use, a Bylaw that will be readily convertible to Web and other electronic formats, and that provides a greater range of information regarding zoning in Brookline.

At the close of the April 4, 2002 public hearing on the proposed amendment to the Zoning Bylaw, the Planning Board voted 5-0 to recommend **FAVORABLE ACTION** as submitted.

SELECTMEN'S RECOMMENDATION

Article 10 is the first of three phases of reorganizing and reformatting the Zoning By-Law. The purpose of this three part project is:

1. to provide greater ease of use and readability
2. greater clarity and organization
3. functional coordination
4. elimination of remnants of previously deleted provisions
5. additional information and references to aid in making zoning decisions and interpretations
6. ability to post to the Internet and develop a Web version with hyperlinking and other electronic functionality

These goals were all significant objectives of this project, were part of the original charge of the Zoning By-Law Commission, and were included in a high priority project recommended for Spring 2002 Town Meeting by the Zoning By-Law Commissions adopted Work Program.

This first phase of this project is recommended to include:

1. new document format and codification system
2. revised table of contents
3. revised definitions section
4. revised use table
5. addition of headers and footers
6. clarified cross-referencing system

The new format provides:

1. easier-to-read single column portrait layout versus the two column landscape format currently employed.
2. the font has been changed from a 9 point Ariel San-Serif to a 10 point Century Schoolbook Times Roman derivative.
3. except for definitions, which are in all capital letters, article, section, and paragraph headings have been formatted to be clear and distinctive.
4. the codification has been revised to provide a more common 1., a., 1) outline format.
5. The table of contents has been revised to list all sections and subsections and may be further enhanced in successive phases.
 - a. The definitions section has been revised to create section headings for alphabetically equivalent terms instead of using a section number for each defined term. This will allow additional definitions to be added without changing the section numbering system.
6. The use table has been placed in a new format that is designed to be easier to read and locate information.
7. Headers and footers were added to each page and include the document name and town identifier in the header and the section title and page number in the footer. The section title includes the section number and title while the page numbering system has been revised to include the section number followed by a hyphen and the page number within the section (e.g. 5-27).
8. Finally, each internal and external cross-reference was revised to be consistent and was formatted in bold to be clearly identifiable.

Subsequent phases will address:

1. margin text and graphics
2. relocation of administrative and substantive elements
3. relocation of articles or sections

- 4. provision of a detailed index
- 5. calculation formulas
- 6. development examples
- 7. additional and revised diagrams

Also for future consideration is the use of tinted paper, tabs, transparencies, and other means to allow amendments to stand out better. Strategies will be developed for the creation of new media versions of the By-Law (CD-ROM, Internet, etc.) that will allow the seamless development of these products later in the process.

The outcome subsequent to these three project phases is expected to be a Zoning By-Law that will be significantly easier to read and use, a By-Law that will be readily convertible to Web and other electronic formats, and one that provides a greater range of information regarding zoning in Brookline.

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

VOTED: That the Town replace the existing Zoning By-Law with the new and restructured Zoning By-Law, dated May 29, 2002, which new and restructured Zoning By-Law contains the Table of Contents set forth below, with copies of new and restructured Zoning By-Law being on file and available for inspection in the Town Clerk’s office, the Coolidge Corner and Putterham branches of the Brookline Public Library, the office of Planning and Community Development, Town Counsel’s office, and on the Town’s Web site, with the copy on file in the Town Clerk’s office being incorporated herein by reference.

TABLE OF CONTENTS

ARTICLE I, PURPOSE AND SCOPE 1-1

 §1.00 – PURPOSE AND INTERPRETATION 1-1

ARTICLE II, DEFINITIONS 2-1

 §2.00 – PURPOSE AND INTENT 2-1

 §2.01 – “A” DEFINITIONS 2-1

 §2.02 – “B” DEFINITIONS 2-1

 §2.03 – “C” DEFINITIONS 2-1

 §2-04 – “D” DEFINITIONS 2-1

 §2-05 – “E” DEFINITIONS 2-2

 §2-06 – “F” DEFINITIONS 2-2

 §2-07 – “G” DEFINITIONS 2-2

 §2-08 – “H” DEFINITIONS 2-2

 §2-09 – “I” DEFINITIONS 2-3

 §2-10 – “J” DEFINITIONS 2-3

 §2-11 – “K” DEFINITIONS 2-3

 §2-12 – “L” DEFINITIONS 2-3

 §2-13 – “M” DEFINITIONS 2-5

 §2-14 – “N” DEFINITIONS 2-5

- §2-15 – “O” DEFINITIONS 2-6
- §2-16 – “P” DEFINITIONS 2-6
- §2-17 – “Q” DEFINITIONS 2-6
- §2-18 – “R” DEFINITIONS 2-6
- §2-19 – “S” DEFINITIONS 2-6
- §2-20 – “T” DEFINITIONS 2-7
- §2-21 – “U” DEFINITIONS 2-7
- §2-22 – “V” DEFINITIONS 2-7
- §2-23 – “W” DEFINITIONS 2-7
- §2-24 – “X” DEFINITIONS 2-7
- §2-25 – “Y” DEFINITIONS 2-8
- §2-26 – “Z” DEFINITIONS 2-8

ARTICLE III, ESTABLISHMENT OF ZONING DISTRICTS.....3-1

- §3.00 – DIVISION OF THE TOWN INTO DISTRICTS 3-1
- §3.01 – CLASSIFICATION OF DISTRICTS 3-1
- §3.02 – BOUNDARIES OF THE DISTRICT 3-2

ARTICLE IV, USE REGULATIONS 4-1

- §4.00 – APPLICABILITY OF REGULATIONS 4-1
- §4.01 – PERMITTED USES 4-1
- §4.02 – USES SUBJECT TO OTHER REGULATIONS 4-1
- §4.03 – EXISTING SPECIAL PERMIT USE 4-1
- §4.04 – LIMITATION OF AREA OF ACCESSORY USES 4-2
- §4.05 – RESTRICTIONS ON ACCESSORY USES IN RESIDENCE DISTRICTS 4-2
- §4.06 – TEMPORARY ACCESSORY USES 4-2
- §4.07 – TABLE OF USE REGULATIONS 4-3
- §4.08 – AFFORDABLE HOUSING REQUIREMENTS 4-18
- §4.09 – WIRELESS TELECOMMUNICATIONS SERVICES 4-21
- §4.10 – TABLE OF USE REGULATIONS 4-25

ARTICLE V, DIMENSIONAL REQUIREMENTS 5-1

- §5.00 – DISTRICT REGULATIONS 5-1
- §5.01 – LOT AREA OF YARDS REQUIRED 5-1
- §5.02 – SPACING OF NON-RESIDENTIAL BUILDINGS ON THE SAME LOT 5-1
- §5.03 – SPACING OF RESIDENTIAL BUILDINGS ON THE SAME LOT 5-1
- §5.04 – RESIDENTIAL BUILDING ON REAR OF A LOT 5-6
- §5.05 – CONVERSIONS 5-6
- §5.06 – SPECIAL DISTRICT REGULATIONS 5-7
- §5.07 – DWELLINGS IN BUSINESS AND INDUSTRIAL DISTRICTS 5-8
- §5.08 – EXCEPTIONS TO DIMENSIONAL REQUIREMENTS FOR USES 9 AND 10 5-8
- §5.09 – DESIGN REVIEW 5-9
- §5.10 – MINIMUM LOT SIZE 5-17
- §5.11 – CLUSTER SUBDIVISIONS, DESIGNED GROUPS OF SINGLE-FAMILY DWELLINGS, AND
ESTATE CONVERSIONS 5-18
- §5.12 – LOT AREA PER DWELLING UNIT OR EQUIVALENT 5-23
- §5.13 – LOT WIDTH 5-23
- §5.14 – LOT FRONTAGE 5-23
- §5.15 – EXCEPTION TO MINIMUM LOT SIZE AND LOT WIDTH REQUIREMENTS 5-24
- §5.20 – FLOOR AREA RATIO 5-24
- §5.21 – EXCEPTIONS TO MAXIMUM FLOOR AREA RATIO REGULATIONS (PUBLIC BENEFIT
INCENTIVES) 5-25
- §5.22 – EXCEPTIONS TO FLOOR AREA RATIO REGULATIONS FOR RESIDENTIAL UNITS 5-26
- §5.30 – MAXIMUM HEIGHT OF BUILDINGS 5-27
- §5.31 – EXCEPTIONS TO MAXIMUM HEIGHT REGULATIONS 5-31
- §5.32 – EXCEPTIONS TO MAXIMUM HEIGHT REGULATIONS (PUBLIC BENEFIT

INCENTIVES).....	5-31
§5.40 – WALLS NOT PARALLEL TO LOT LINES	5-32
§5.41 – BUILDINGS OF UNEVEN HEIGHT ALIGNMENT.....	5-33
§5.42 – YARD AND SETBACK FROM OPEN SPACE, STREET OR ALLEY	5-34
§5.43 – EXCEPTIONS TO YARD AND SETBACK REGULATIONS.....	5-34
§5.44 – ACCESSORY UNDERGROUND STRUCTURES.....	5-35
§5.45 – TRAFFIC VISIBILITY ACROSS CORNERS	5-35
§5.46 – CORNER LOTS.....	5-38
§5.47 – DIMENSIONAL REQUIREMENTS FOR COURTS	5-38
§5.48 – ATTACHED ONE-FAMILY DWELLING IN T DISTRICTS	5-38
§5.50 – FRONT YARD REQUIREMENTS.....	5-37
§5.51 – PROJECTIONS INTO FRONT YARDS.....	5-37
§5.52 – FENCES AND TERRACES IN FRONT YARDS.....	5-37
§5.53 – ACCESSORY BUILDING IN FRONT YARDS.....	5-37
§5.54 – EXCEPTIONS FOR EXISTING ALIGNMENT	5-37
§5.55 – FRONT YARD FOR REAR LOT	5-38
§5.60 – SIDE YARD REQUIREMENTS.....	5-39
§5.61 – PROJECTIONS INTO SIDE YARDS	5-39
§5.62 – FENCES AND TERRACES IN SIDE YARDS.....	5-39
§5.63 – ACCESSORY BUILDING OR STRUCTURES IN SIDE YARDS	5-39
§5.64 – SIDE YARDS FOR NON-DWELLING USES IN BUSINESS OR INDUSTRIAL DISTRICTS.....	5-40
§5.70 – REAR YARD REQUIREMENTS.....	5-40
§5.71 – PROJECTIONS INTO REAR YARDS	5-42
§5.72 – ACCESSORY BUILDINGS OR STRUCTURES IN REAR YARDS	5-42
§5.73 – REAR YARDS IN BUSINESS OR INDUSTRIAL DISTRICTS.....	5-43
§5.74 – FENCES AND TERRACES IN REAR YARDS	5-43
§5.80 – SETBACK REQUIREMENTS IN BUSINESS OR INDUSTRIAL DISTRICTS	5-43
§5.90 – MINIMUM LANDSCAPED OPEN SPACE	5-43
§5.91 – MINIMUM USABLE OPEN SPACE.....	5-44
§5.92 – EXCEPTIONS FOR RESIDENTIAL STRUCTURES DESIGNED FOR TRANSIENT OCCUPANCY.....	5-44
ARTICLE VI, VEHICULAR SERVICE USE.....	6-1
§6.00 – INTENT OF REQUIREMENTS.....	6-1
§6.01 – GENERAL REGULATIONS APPLYING TO REQUIRED OFF-STREET PARKING FACILITIES.....	6-1
§6.02 – OFF-STREET PARKING SPACE REGULATIONS.....	6-2
§6.03 – LOCATION OF REQUIRED OFF-STREET PARKING FACILITIES.....	6-6
§6.04 – DESIGN OF ALL OFF-STREET PARKING FACILITIES.....	6-6
§6.05 – BICYCLE SPACE AND DESIGN REGULATIONS.....	6-11
§6.06 – OFF-STREET LOADING REGULATIONS.....	6-11
§6.07 – DESIGN AND LAYOUT OF OFF-STREET LOADING FACILITIES	6-12
§6.08 – REGULATIONS APPLYING TO GASOLINE SERVICE STATIONS.....	6-13
§6.09 – REGULATIONS APPLYING TO OUTDOOR AUTOMOBILE RENTAL OR SALES AND STORAGE FOR RENTAL OR SALE.....	6-14
ARTICLE VII, SIGNS, ILLUMINATION, & REGULATED FAÇADE ALTERATIONS.....	7-1
§7.00 – SIGNS IN ALL DISTRICTS	7-1
§7.01 – SIGNS IN S, SC, AND T DISTRICTS	7-2
§7.02 – SIGNS IN M DISTRICTS	7-2
§7.03 – SIGNS IN L, G, I AND O DISTRICTS.....	7-3
§7.04 – ILLUMINATION	7-5
§7.05 – NONCONFORMANCE OF ACCESSORY SIGNS.....	7-5

ARTICLE VIII, NONCONFORMANCE 8-1

 §8.01 – CONTINUANCE 8-1

 §8.02 – ALTERATION OR EXTENSIONS 8-1

 §8.03 – REBUILDING AFTER CATASTROPHE 8-1

 §8.04 – ABANDONMENT 8-2

 §8.05 – SUBSTITUTION 8-2

ARTICLE IX, ADMINISTRATION AND PROCEDURE 9-1

 §9.00 – ENFORCEMENT 9-1

 §9.01 – PROVISION FOR BOARD OF APPEALS 9-2

 §9.03 – SPECIAL PERMITS 9-3

 §9.04 – PROCEDURE FOR APPLICATION FOR SPECIAL PERMIT 9-3

 §9.05 – CONDITIONS FOR APPROVAL OF SPECIAL PERMIT 9-3

§9.06 – APPEALS FOR VARIANCE CALLING FOR ADVISORY REPORT FROM PLANNING BOARD 9-4

 §9.07 – TIME LIMITS FOR SPECIAL PERMITS AND VARIANCES 9-4

 §9.08 – NOTICE TO TOWN MEETING MEMBERS AND OTHERS 9-4

 §9.09 – CONDITIONS FOR APPROVAL OF USE VARIANCE 9-4

 §9.10 – EVENING MEETINGS 9-5

 §9.11 – ADMINISTRATIVE SITE PLAN REVIEW REQUIREMENTS FOR EDUCATIONAL USES IN RESIDENCE DISTRICTS 9-5

ARTICLE X, AMENDMENT AND INTERPRETATION 10-1

 §10.00– AMENDMENT 10-1

 §10.01 – VALIDITY OF ACTION TAKEN UNDER PRIOR BY-LAW 10-1

 §10.02 – UNIFORMITY IN EACH DISTRICT 10-1

 §10.03 – UNSAFE WALLS AND FIRE ESCAPES 10-1

 §10.04 – VALIDITY 10-1

 §10.05 – EFFECT OF SUBSEQUENT AMENDMENT 10-1

[EXISTING INDEX] [EXISTING]

[EXISTING MAP AMENDMENTS] [EXISTING]

[EXISTING ZONING MAP] [EXISTING]

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND

Article 10 proposes to replace the existing zoning bylaw with a new and reorganized bylaw dated May 2002. The warrant lists the Table of Contents of the revised bylaw. The single most important thing to know about Article 10 is that it makes no substantive change in the existing bylaw. Rather it is a reorganization of the existing bylaw which is intended to put it in a more logical and easier to use format.

DISCUSSION

Article 10 is only a first step in a process contemplated by the Zoning Advisory Committee and the Planning Department staff. In this phase, sections are renumbered and in some places cross references are inserted, but there is no change in the content, language or explanatory diagrams. An example of the renumbering occurs in the definition section, Page 2-1, in which all definitions are arranged alphabetically with different section numbers for each letter of the alphabet. This will allow a reader to find the applicable definition more easily and, equally importantly, will allow new definitions to be added without changing the numbering of the entire section.

In addition to making the bylaw easier to use, a second purpose is to put the zoning bylaw in a format that can be put on the Town's word processing system and web site. This will facilitate at least three major goals of the zoning rewrite.

(1) Access to and use of the bylaw by all Town agencies which have zoning responsibilities, including the Planning Board, Board of Zoning Appeals and Building Department and the public, including homeowners, lawyers and architects.

(2) Easy updating and printing any future amendments of the bylaw by the Town.

(3) Creation of a data base that will enable Town staff and officials and citizen access to decisions interpreting and applying specific provisions of the bylaw.

Remarkably, none of these aids to understanding and use of the bylaw is readily available now. The bylaw has grown by a process of cutting and pasting new provisions into the existing text. It has never been put in a word processing format that would make it easy to edit or retrieve or copy provisions, for example for the Planning Board or Building Department to insert a decision or ruling.

A second step in the reorganization process is planned for the Town meeting next fall. As presently contemplated, that second step will also not involve much in the way of substantive changes, but will involve a thorough-going effort to group related sections and eliminate inconsistencies or omissions in the existing text that have grown up over the years. The Planning Department would, nevertheless, like to go ahead with this warrant article now in order to get the bylaw on the Web site as soon as possible.

RECOMMENDATION

The Advisory Committee believes that this warrant article is a valuable first step in making the Zoning Bylaw more accessible and in aiding the process of review of the substance of the Bylaw. Therefore, the Advisory Committee unanimously recommends FAVORABLE ACTION on Warrant Article 10.

ARTICLE 11

ELEVENTH ARTICLE

To see if the Town will amend the Zoning By-Law (references are to the Restructured By-Law) by adding to Section 6.04, Design of All Off-Street Parking Facilities, a new subsection, paragraph 2, subparagraph g. Handicapped Accessible Parking Requirements, to read as follows:

(g) Handicapped Accessible Parking Requirements All parking garages or parking areas associated with new development are required at a minimum to provide handicapped accessible parking in conformance with the standards in 521 CMR 23.2.1: Architectural Access Board regulations, as follows:

<u>Total Parking in Lot</u>	<u>Required Minimum Number of Accessible Spaces</u>
15-25	1
25-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1000

Required handicapped accessible parking spaces shall conform to the design and dimensional standards in 521 CMR 23.3 to 23.8 as related to location, size, aisle width, van accessibility and signage.

or act on anything relative thereto.

**PLANNING BOARD REPORT AND RECOMMENDATION
ON ARTICLE 11**

PROPOSED AMENDMENT TO ZONING BY-LAW,
SEC. 6.04, DESIGN OF ALL OFF-STREET PARKING FACILITIES

The Planning Board strongly supports this amendment to add language to Section 6.04, Design of All Off-Street Parking Facilities of the Zoning By-Law to require handicapped parking for **all** new development where required parking is 15 or more spaces, including all rental and condominium residential development.

This amendment makes the Zoning By-Law consistent with the Town By-laws, Section 7.5.5, which already requires handicapped parking spaces in Brookline for all off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or any other parking facility which is open to the public. Additionally, the State regulations under 521 CMR: Architectural Access Board (AAB) require handicapped accessible parking for all parking lots of 15 or more cars serving non-residential uses. Currently, the AAB does not require handicapped parking spaces for residential uses where spaces are allocated to a specific unit owner, unless that owner has a need for an accessible space, or unless the number of visitor spaces for the residential use is greater than 15. (See 521 CMR 10.1.) Therefore, this new zoning by-law is more stringent than the state regulations for residential uses. Town Counsel was asked if it is permissible to have a local zoning by-law require greater handicapped accessibility than is required in the state and federal regulations, and in a memo of 4 April 2002, he has answer in the affirmative.

The Planning Board believes this amendment is important because parking for residential buildings serves not only residents but also visitors; thus, handicapped accessible spaces ought to be provided for those who would visit residents and need accessible spaces. Additionally, a new owner, tenant, or resident who may not currently need handicapped parking may require it in the future due to “aging in place”, illness or accident. Several citizens have requested that the wording be amended to emphasize that the new requirement includes residential uses. The Planning Board, therefore, recommends that the word “all”, which begins the first sentence, be moved to later in the sentence before the words “new development”. Therefore, the Planning Board recommends **FAVORABLE ACTION** on Article 11 with the above revision as follows.

To see if the Town will amend the Zoning By-Law by adding to Section 6.04, Design of All Off-Street Parking Facilities, a new paragraph 2, subparagraph g.

g. Handicapped Accessible Parking Requirements Parking garages or parking areas associated with **all** new development are required at a minimum to provide handicapped accessible parking in conformance with the standards in 521 CMR 23.2.1: Architectural Access Board regulations, as follows:

<u>Total Parking in Lot</u>	<u>Required Minimum Number of Accessible Spaces</u>
15-25	1
25-50	2
51-75	3
76-100	4
101-150	5

151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1000

Required handicapped accessible parking spaces shall conform to the design and dimensional standards in 521 CMR 23.3 to 23.8 as related to location, size, aisle width, van accessibility and signage.

Or act on anything relative thereto.

SELECTMEN’S RECOMMENDATION

This article adds requirements for providing handicapped accessible parking to the Zoning By-Law for all new developments with 15 or more parking spaces, thereby bringing the Zoning By-Law into conformance with the Town By-Laws, which already require handicapped accessible parking for all off-street parking areas of 15 or more cars. Several citizens requested a minor modification to the originally submitted language to make it absolutely clear that this amendment applies to all residential developments, whether they are rental or condominium, as well as other types of development. This change has been made in the proposed vote.

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

ADVISORY COMMITTEE’S RECOMMENDATION

OVERVIEW

Article 11 proposes an amendment to the Zoning Bylaw which deals with the requirements for off-street parking facilities. It seeks to improve regulations for providing handicapped accessible parking in town.

DISCUSSION

New paragraph (g) would be added to Section 6.04(2) Design of All Off-Street Parking Facilities in the proposed restructured ByLaw (this would have been Section 6.13(b)(7) under the prior

numbering system). This bylaw will require that all new development, including residential and condominiums, must provide handicapped accessible parking where required parking is 15 or more spaces. The bylaw will include a table for determining the required number of accessible spaces needed in parking garages and lots that are part of any and all new development projects. This table is reproduced from the state's Architectural Access Board Regulations, 521 CMR, section 23, paragraph 2.1 table 2.2. In addition, by referencing further paragraphs 23.3 to 23.8, it defines how those spaces shall be located and laid out, exactly how special vans can get into a garage and important signage. This new addition to the bylaw will also be more stringent than the state version, because it includes residential developments in the listing of affected projects, if they are big enough to need 15 or more spaces due to having seven or more units. The present bylaw specifies the width of parking spaces and aisles in a parking garage but it does not specify the number of spaces required. However, this amendment will make the zoning bylaw comply with the Town Bylaw, Section 7.5.5 which currently requires handicapped accessible parking spaces for all businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings or any other parking facility which is open to the public. Proponents of the warrant article stressed the importance of calling for all types of new development to be controlled by the amendment, because residential parking facilities really need the accessible spaces for present or possible future occupants as well as for visitors.

The Planning Board strongly supports this amendment, although it did suggest that the word “all” be moved from the beginning of the sentence to directly in front of “new development,” to emphasize that this bylaw is designed to cover residential buildings. The Advisory Committee concurs that this extension of the Town Bylaws and Zoning Bylaws dealing with accessible parking for the handicapped is an appropriate change.

RECOMMENDATION

The Advisory Committee therefore unanimously recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town amend the Zoning Bylaw (references are to the Restructured By-Law) by adding to Section 6.04, Design of All Off-Street Parking Facilities, a new paragraph 2, subparagraph g. Handicapped Accessible Parking Requirements, to read as follows:

g. Handicapped Accessible Parking Requirements Parking garages or parking areas associated with all new development are required at a minimum to provide handicapped accessible parking in conformance with the standards in 521 CMR 23.2.1: Architectural Access Board regulations, as follows:

<u>Total Parking in Lot</u>	<u>Required Minimum Number of Accessible Spaces</u>
15-25	1
25-50	2
51-75	3
76-100	4

101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1000

Required handicapped accessible parking spaces shall conform to the design and dimensional standards in 521 CMR 23.3 to 23.8 as related to location, size, aisle width, van accessibility and signage.

XXX

ARTICLE 12

TWELFTH ARTICLE

To see if the Town will amend the Zoning By-Law, Section 4.07, Table of Use Regulations -- Health and Fitness Club Use (references are to the Restructured By-Law):

A. Section 4.07, Table of Use Regulations, of the Zoning By-law, by creating a new Principal Use as part of the Institutional, Recreational & Educational Uses category. The new Principle Use shall be as follows:

	S	SC	T	M	L	G	O	I
18. Private Club or Lodge								
(a) Health and fitness club, operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health.	No	No	No	No	No	SP	SP	No
(b) Private club or lodge, operated not for profit and for members only, other than Use 13.	No	No	No	No	Yes	Yes	Yes	Yes

B. Article II, Definitions, of the Zoning By-law, by creating a new definitions for Private Club or Lodge and Health and Fitness Clubs to be consistent with the terms used in the proposed new Principal Use described above. These definitions shall be as follows:

By replacing the current Section 2.08 with a revised Section 2.08 with the addition of the definition of Health Club as follows:

§2.08 - “H” DEFINITIONS

1. HEALTH AND FITNESS CLUB—A private club operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health-related services.
2. HEIGHT OF BUILDING—The vertical distance of the highest point of the roof beams in the case of a flat roof, or of the top of the rafters at the ridge in the case of a sloping roof, above the level specified in Article V, §5.30.
3. HOME OCCUPATION
 - a. An activity customarily carried on by the permanent residents of a dwelling unit, inside the dwelling unit, requiring only customary home equipment, and not involving:
 - 1) The sale of articles produced elsewhere than on the premises, and brought to the premises for the purpose of sale.

- 2) The storage of materials or products outside of a principal building.
 - 3) The making of external structural alterations which are not customary in residential buildings.
 - 4) The production of offensive noise, vibration, smoke, dust or other particular matter, heat, humidity, glare, or other objectionable effects.
- b. Home occupations include but are not limited to:
- 1) Fine arts studios
 - 2) Dressmaking
 - 3) Teaching of not more than four pupils simultaneously or, in the case of musical instruction, of not more than a single pupil at a time.
- c. Home occupations do not include such uses as:
- 1) Barber shops
 - 2) Beauty parlors
 - 3) Commercial stables or kennels
 - 4) Real estate or insurance offices
4. HOTEL—A structure in which sleeping accommodations are let for compensation primarily to transients and in which a public eating facility is provided.

By replacing the current Section 2.16 with a revised Section 2.16 with the addition of the definition of Private Club or Lodge as follows:

§2.16 - “P” DEFINITIONS

1. PARKING GARAGE OR PARKING AREA, NON-RESIDENTIAL—A building, structure, lot or part of a lot designed or used for the shelter or storage of commercial or non-commercial motor vehicles used by the occupants or users of a lot or lots devoted to a use or uses not permitted in a residence district, in which space is available either to long-term or to transient or casual parkers.
2. PARKING GARAGE OR PARKING AREA, RESIDENTIAL—A building, structure, part of a building or structure, lot or part of a lot designed or used for the shelter or storage of non-commercial motor vehicles used by the occupants or users of a lot or lots devoted

to a use or uses permitted in a residence district and in which no space is rented for casual or transient parkers.

- 3. PRIVATE CLUB OR LODGE—A private club, lodge, or organization operated not for profit, and for members only.
- 4. PROFESSION, RECOGNIZED—Architecture, engineering, law, medicine, dentistry, or other activity in which specialized services to clients are performed by persons possessing a degree from a recognized institution of higher learning demonstrating successful completion of a prolonged course of specialized intellectual instruction and study, and also possessing evidence of professional capability such as membership in a professional society requiring standards of qualification for admission.

C. To see if the Town will amend Article VI, Vehicular Service Use Requirements, of the Zoning By-law, by deleting use 18, Private Club or Lodge from Section 6.02, Off-Street Parking Regulations, paragraph 3. Section 6.02, paragraph 3 will thus read as follows:

- 3. Places of Public Assembly shall include Uses 9, 12 to 14 inclusive, 16, 30, and 34, as listed in **Article IV**.

And by adding use 18 to Section 6.02, Off-Street Parking Regulations, paragraph 5. Section 6.02, paragraph 5 will thus read as follows:

- 5. Retail and Office uses of land or structures shall include Uses 18, 20, 20A, 21, 26, 27, 29, 31 to 33 inclusive, 35 to 39 inclusive, 41, 58, and 59 as listed in **Article IV**.

or act on anything relative thereto.

PLANNING BOARD REPORT AND RECOMMENDATION ON ARTICLE 12

TO RESTRUCTURE THE ZONING BY-LAWS BY: (1) CREATING A NEW PRINCIPAL USE AS PART OF THE INSTITUTIONAL, RECREATIONAL & EDUCATIONAL USES CATEGORY IN SECTION 4.07, TABLE OF USE REGULATIONS, (2) CREATING NEW DEFINITIONS FOR PRIVATE CLUB OR LODGE AND HEALTH AND FITNESS CLUBS TO BE CONSISTENT WITH THE TERMS USED IN THE PROPOSED NEW PRINCIPAL USE DESCRIBED ABOVE, (3) DELETING USE 18, PRIVATE CLUB OR LODGE FROM SECTION 6.02, OFF-STREET PARKING REGULATIONS, PARAGRAPH 3 OF ARTICLE VI, VEHICULAR SERVICE USE REQUIREMENTS, AND (4) ADDING USE 18 TO SECTION 6.02, OFF-STREET PARKING REGULATIONS, PARAGRAPH 5 OF ARTICLE VI, VEHICULAR SERVICE USE REQUIREMENTS.

In accordance with Chapter 40A of the General Laws of the Commonwealth of Massachusetts, after due notice had been given, the Planning Board held a public hearing on April 4, 2002 in Town Hall on a Zoning Bylaw text amendment as described below. The advertisement for the public hearing appeared in the Brookline TAB on March 21, 2002 and March 28, 2002. Copies of the notice were sent to all Town Meeting Members, neighborhood associations, Town agencies, Massachusetts Department of Housing and Community Development, Metropolitan Area Planning Council, Planning Boards of Boston and Newton, and others. The minutes of the hearing and record of citizen attendance are on file in the Planning and Community Development Department.

Introduction

The Town of Brookline is currently in the process of updating its Zoning Bylaw in accordance with recommendations put forth by a duly appointed Zoning Bylaw Commission. The process conducted by the Zoning Bylaw Commission has resulted in a set of recommended projects and actions designed to meet a set of goals and objectives.

Warrant Article XII, which proposes to amend the Zoning Bylaw for the purpose of adding a use category to the By-law and other associated changes to keep the code consistent with this addition, has been developed in conjunction with the Work Program for updating the Zoning Bylaw adopted on September 24, 2001 by the Zoning Bylaw Commission.

Justification for Proposed Amendment

This Warrant Article responds to a specific recommendation adopted by the Zoning Bylaw Commission which is described in the Final Work Program as Project 4.2, Uses; Action 4.21-Use, Periodic Review of Listings which states:

“Periodically review and examine the listing of uses and definitions provided in the Zoning Bylaw for inclusiveness and applicability.”

This was adopted as an ongoing project and action that may result in additional relevant uses being identified and brought to subsequent Town Meetings.

(1) Article IV, Use Regulations, §4.07, Table of Use Regulations of the Town of Brookline’s current Zoning By-law does not exclusively identify a for-profit, membership only, fitness and exercise facility as a principal use. However, the following proposed amendment language to Use 18 of §4.07 makes explicit as a Special Permit Use such a facility within G and O districts.

	S	SC	T	M	L	G	O	I
18. Private Club or Lodge								
(a) Health and fitness club, operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health	No	No	No	No	No	SP	SP	No
(b) Private club or lodge, operated not for profit and for members only, other than Use 13.	No	No	No	No	Yes	Yes	Yes	Yes

The current use 18 reads as follows:

	S	SC	T	M	L	G	O	I
18. Private club or lodge, operated not for profit and for members only, other than use 13.	No	No	No	No	Yes	Yes	Yes	Yes

(2) In conjunction with this change, several additional changes were deemed necessary to coordinate this new use 18 with the By-law in general. These include replacing the current §2.08 with a revised §2.08 with the addition of the definition of Health Club as follows:

§2.08 - “H” DEFINITIONS

1. HEALTH AND FITNESS CLUB—A private club operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health-related services.

This new definition shall be added as subsection 1 and all other definitions under §2.08 shall be increased by one number. Also, §2.16 shall be replaced with a revised Section 2.16 with the addition of the definition of Private Club or Lodge as follows:

§2.16 - “P” DEFINITIONS

3. PRIVATE CLUB OR LODGE—A private club, lodge, or organization operated not for profit, and for members only.

This new definition shall be added as subsection 3 and all subsequent definitions under §2.16 shall be increased by one number.

(3) The final amendment proposed in this Warrant Article removes the new Use 18, Private Club or Lodge from the §6.02, Off-Street Parking Regulations, paragraph 3. Thus, §6.02, paragraph 3 will read as follows:

3. Places of Public Assembly shall include Uses 9, 12 to 14 inclusive, 16, 30, and 34, as listed in **Article IV**.

While said paragraph 3 of §6.02 of the Zoning By-law currently reads as follows:

- 3. Places of Public Assembly shall include Uses 9, 12 to 14 inclusive, 16, 18, 30, and 34, as listed in **Article IV**.

It also places Use 18, Private Club or Lodge into §6.02, paragraph 5. Thus, §6.02, paragraph 5 will read as follows:

- 5. Retail and Office uses of land or structures shall include Uses 18, 20, 20A, 21, 26, 27, 29, 31 to 33 inclusive, 35 to 39 inclusive, 41, 58, and 59 as listed in **Article IV**.

While said paragraph 5 of §6.02 of the Zoning By-law currently reads as follows:

- 5. Retail and Office uses of land or structures shall include Uses 20, 20A, 21, 26, 27, 29, 31 to 33 inclusive, 35 to 39 inclusive, 41, 58, and 59 as listed in **Article IV**.

At the close of the April 4, 2002 public hearing on the proposed amendment to the Zoning Bylaw, the Planning Board voted 5-0 to recommend **FAVORABLE ACTION** with one change. The Planning Board requested that the Health Club use be extended as a Special Permit use in an Industrial district. Therefore, the proposed use table with this change would read as follows (with change in bold and underlined):

	S	SC	T	M	L	G	O	I
18. Private Club or Lodge								
(a) Health and fitness club, operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health	No	No	No	No	No	SP	SP	<u>SP</u>
(b) Private club or lodge, operated not for profit and for members only, other than Use 13.	No	No	No	No	Yes	Yes	Yes	Yes

Or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Article 12, which proposes to amend the Zoning By-Law for the purpose of adding a use category to the by-law and other associated changes to keep the code consistent with this addition, has been developed in conjunction with the Work Program for updating the Zoning By-Law adopted on September 24, 2001 by the Zoning By-Law Commission.

This Warrant Article responds to a specific recommendation adopted by the Zoning By-Law Commission which is described in the Final Work Program as Project 4.2, Uses; Action 4.21-Use, Periodic Review of Listings which states:

“Periodically review and examine the listing of uses and definitions provided in the Zoning Bylaw for inclusiveness and applicability.”

In considering this proposed article, the Board of Selectmen recognizes that the proposed use is appropriate for Brookline and will contribute to the economic health and diversity of our commercial areas. The continued retention and attraction of appropriate businesses that will strengthen Brookline’s commercial areas is a high priority for the Board and the proposed Zoning By-Law amendment is consistent with that commitment.

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

ADVISORY COMMITTEE’S RECOMMENDATION

OVERVIEW

The Zoning bylaw at present regulates uses that fit into the category “private club or lodge, operated not for profit and for members only.” The bylaw doesn’t regulate for profit, membership only, fitness and exercise facilities. Article 12, as proposed would add a new sub-category to the town's Zoning By-law in order to correct this omission. It would regulate a for a "Health and Fitness Club" principal use. Within the proposed restructured bylaw's "Institutional, Recreational and Educational" use category, existing use "18 - Private Club or Lodge" would be amended to this as new use 18(a).

This designation would permit a "for profit" facility that provided physical fitness related activities for members to be located in General Business or Office Zones by Special Permit. The existing "Private Club or Lodge" use would be relabeled as use 18(b) and remain a "not for profit," members only use in the same districts currently allowed.

DISCUSSION

Businesses of the "Health and Fitness Club" category actually already exist in several locations, but the Planning Department believes that the zoning bylaw concerning "not for profit" clubs doesn’t cover this use, nor did any other section of the Bylaw. This allows such for profit health and fitness clubs to locate without much restriction. Existing for profit health and fitness clubs would be allowed to remain where they are, as their use will predate this Zoning Bylaw change. But, this limitation to only "G" (General Business) and "O" (Office) locations, and then only by special-permit review instead of "by right," will allow for considerably more regulation of new such uses. The Special Permit process will allow for greater review by the Town and neighborhoods and deal with various concerns including parking and traffic.

The Planning Board recommended a change to the proposed bylaw which would allow for profit health and fitness clubs to also locate in Industrial Zones by Special Permit. As there is only one small Industrial Zone in town, this did not seem to be a substantial enlargement of the Warrant article.

RECOMMENDATION

The Advisory Committee voted by a substantial majority to recommend favorable action on Article 12 as amended by the Planning Board.

VOTED: That the Town amend the Zoning By-Law, Section 4.07, Table of Use Regulations -- Health and Fitness Club Use (references are to the Restructured By-Law):

Section 4.07, Table of Use Regulations, of the Zoning By-law, by creating a new Principal Use as part of the Institutional, Recreational & Educational Uses category. The new Principle Use shall be as follows:

		S	SC	T	M	L	G	O	I
18.	Private Club or Lodge								
(a)	Health and fitness club, operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health.	No	No	No	No	No	SP	SP	SP
(b)	Private club or lodge, operated not for profit and for members only, other than Use 13.	No	No	No	No	Yes	Yes	Yes	Yes

VOTED: That the Town amend Article II, Definitions, of the Zoning By-law, by creating a new definitions for Private Club or Lodge and Health and Fitness Clubs to be consistent with the terms used in the proposed new Principal Use described above. These definitions shall be as follows:

By replacing the current Section 2.08 with a revised Section 2.08 with the addition of the definition of Health Club as follows:

§2.08 - “H” DEFINITIONS

1. HEALTH AND FITNESS CLUB—A private club operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health-related services.
2. HEIGHT OF BUILDING—The vertical distance of the highest point of the roof beams in the case of a flat roof, or of the top of the rafters at the ridge in the case of a sloping roof, above the level specified in Article V, §5.30.

3. HOME OCCUPATION

- a. An activity customarily carried on by the permanent residents of a dwelling unit, inside the dwelling unit, requiring only customary home equipment, and not involving:
 - 1) The sale of articles produced elsewhere than on the premises, and brought to the premises for the purpose of sale.
 - 2) The storage of materials or products outside of a principal building.
 - 3) The making of external structural alterations which are not customary in residential buildings.
 - 4) The production of offensive noise, vibration, smoke, dust or other particular matter, heat, humidity, glare, or other objectionable effects.
 - b. Home occupations include but are not limited to:
 - 1) Fine arts studios
 - 2) Dressmaking
 - 3) Teaching of not more than four pupils simultaneously or, in the case of musical instruction, of not more than a single pupil at a time.
 - c. Home occupations do not include such uses as:
 - 1) Barber shops
 - 2) Beauty parlors
 - 3) Commercial stables or kennels
 - 4) Real estate or insurance offices
4. HOTEL—A structure in which sleeping accommodations are let for compensation primarily to transients and in which a public eating facility is provided.

VOTED: That the Town amend the Zoning By-Law by replacing the current Section 2.16 with a revised Section 2.16 with the addition of the definition of Private Club or Lodge as follows:

§2.16 - "P" DEFINITIONS

1. PARKING GARAGE OR PARKING AREA, NON-RESIDENTIAL—A building, structure, lot or part of a lot designed or used for the shelter or storage of commercial or non-commercial motor vehicles used by the occupants or users of a lot or lots devoted to a use or uses not permitted in a residence district, in which space is available either to long-term or to transient or casual parkers.
2. PARKING GARAGE OR PARKING AREA, RESIDENTIAL—A building, structure, part of a building or structure, lot or part of a lot designed or used for the shelter or storage of non-commercial motor vehicles used by the occupants or users of a lot or lots devoted to a use or uses permitted in a residence district and in which no space is rented for casual or transient parkers.
3. PRIVATE CLUB OR LODGE—A private club, lodge, or organization operated not for profit, and for members only.
4. PROFESSION, RECOGNIZED—Architecture, engineering, law, medicine, dentistry, or other activity in which specialized services to clients are performed by persons possessing a degree from a recognized institution of higher learning demonstrating successful completion of a prolonged course of specialized intellectual instruction and study, and also possessing evidence of professional capability such as membership in a professional society requiring standards of qualification for admission.

VOTED: That the Town amend Article VI, Vehicular Service Use Requirements, of the Zoning By-law, by deleting use 18, Private Club or Lodge from Section 6.02, Off-Street Parking Regulations, paragraph 3. Section 6.02, paragraph 3 will thus read as follows:

3. Places of Public Assembly shall include Uses 9, 12 to 14 inclusive, 16, 30, and 34, as listed in **Article IV**.

And by adding use 18 to Section 6.02, Off-Street Parking Regulations, paragraph 5. Section 6.02, paragraph 5 will thus read as follows:

5. Retail and Office uses of land or structures shall include Uses 18, 20, 20A, 21, 26, 27, 29, 31 to 33 inclusive, 35 to 39 inclusive, 41, 58, and 59 as listed in **Article IV**.

ARTICLE 13

THIRTEENTH ARTICLE

To see if the Town will adopt the following resolution:

Be It Hereby resolved: that the Zoning By Law Commission investigate and report to a future Town Meeting on the inclusion of the issue of "Mansionization" and whether or not special provision should be included in the new zoning by-laws concerning that subject, or act on anything relevant thereto.

The issue of Mansionization is that houses are being built or enlarged on a scale which is dramatically out of proportion with the surrounding houses in a community.

SELECTMEN'S RECOMMENDATION

Article 13, which was filed by petition, recommends that Town Meeting direct the Zoning By-law Commission to "investigate and report to a future Town Meeting on the inclusion of the issue of "Mansionization" and whether or not special provision should be included in the new Zoning By-laws concerning that subject." Mansionization is defined by the petitioners as the construction or enlargement of houses "on a scale which is dramatically out of proportion with the surrounding houses in a community." Both Article 13 and 17 have been filed as a result of resident concerns regarding past residential construction activity within the Chestnut Hill Golf Club/Chestnut Hill Estate Subdivision (Reservoir Road, Crafts Road and Boylston Street) and a recent application for a demolition permit on Fairway Road.

As noted in the report submitted by the Director of Planning and Community Development on April 2, 2002, "the issue of Mansionization has received significant regional and national attention in recent years. Numerous suburban, rural and older traditional residential communities have modified zoning, subdivision and related land use regulations to protect neighborhood character. Local Town's such as Wellesley have recently adopted regulations addressing Mansionization and the Town of Lexington will consider similar regulations this spring."

The work program developed and approved by the Zoning By-Law Commission to guide amendments to Brookline's Zoning By-Law does not specifically mention the term or issue of Mansionization, but it does identify the importance of examining current dimensional and related

zoning standards to address single family construction and alterations in established residential districts during FY 2003 (see Chapter 7 Dimensional Requirements of Zoning By-law Update Part II - Technical Report).

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

VOTED: That the Town adopt the following resolution:

Be It Hereby resolved: that the Zoning By Law Commission investigate and report to a future Town Meeting on the inclusion of the issue of "Mansionization" and whether or not special provision should be included in the new zoning by-laws concerning that subject.

ADVISORY COMMITTEE'S RECOMMENDATION

This resolution was submitted by a citizen petition. It asks the Town to study the development of houses in Brookline that are out of character with their surrounding neighborhood, particularly those that are large for their lot size. "Mansionization" is the term used to describe this phenomenon.

BACKGROUND

The petitioner is concerned that in his own neighborhood a couple of homes were built that he believes are out of proportion with the other homes on his street. The Town's current Zoning By-Laws allows a property owner to tear down an existing home and erect a much larger home that may be different than the character of the neighborhood. The petitioner believes that rather than deal with "Mansionization" on a case by case basis, the present zoning laws should be reviewed and changed if found necessary.

DISCUSSION

The Town already limits the floor area ratio (FAR) of single family homes. Very few towns in the state do so, and the FAR limits the total size of a dwelling in relation to the size of its lot. It would be possible to review the existing FAR ratios, which vary by zoning district, but they generally reflect the existing pattern of development. Moreover, objections to "mansionization" often reflect an esthetic judgment that is not limited to size but includes other issues, such as objections to a "modern" design in a traditional neighborhood. In any case it is very difficult to articulate standards about "mansionization" in a zoning by-law in a way that would be acceptable. Indeed, we suspect that most homeowners would object to being told that they could not put an addition on their house that complied with existing dimensional requirements but did not meet some general prohibition against building that was "out of character" for the neighborhood.

RECOMMENDATION

The Advisory Committee believes that there is no need for a resolution from Town Meeting. Therefore, the Advisory Committee, by a simple majority, recommends NO ACTION on this article.

XXX

ARTICLE 14

FOURTEENTH ARTICLE

To see if the Town will amend Sections 4.08, Affordable Housing Requirements, and 5.09, Design Review (references are to the Restructured By-Law), of the Zoning By-Law.

- (1) the following Section 4.08 in substitution for the existing Section 4.08 (previously known as “Section 4.40”):

§4.08 AFFORDABLE HOUSING REQUIREMENTS

1. *Purpose*

The purpose of this section is to promote the public welfare by:

- a. increasing the supply of housing that is available and affordable to low, moderate and upper-moderate income households, with an emphasis on family housing; and
- b. preventing the displacement of Brookline residents.

2. *Definitions*

The following definitions shall apply in this §4.08. Where a term is undefined herein, the definition set forth in the Affordable Housing Guidelines adopted pursuant to this §4.08, if any, shall control. All other undefined terms in this section either be governed by Article II, Definitions of this Zoning Bylaw or shall be interpreted in accord with such normal dictionary meaning or customary usage as is appropriate to the context.

- a. AFFORDABLE HOUSING GUIDELINES are written policies and criteria, recommended by the Housing Advisory Board and adopted by the Planning Board, which supplement and serve to aid in the interpretation of this section. They may be revised from time to time without an amendment to the Zoning Bylaw.
- b. AFFORDABLE HOUSING PLAN means a document that constitutes the applicant’s showing of compliance with the requirements of this section.
- c. AFFORDABLE UNIT means a dwelling unit which meets the following conditions:

- 1) In a project in which affordable dwelling units will be rented, a unit shall be considered an affordable unit if: (a) it is rented to an eligible household whose initial income is less than or equal to 80% of median income; and (b) it is made available at an initial rent that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income of 65% of median income would be paying 30% of gross income on rent and tenant-paid utilities, unless the occupant has a tenant-based subsidy, in which case the rent may be the amount allowed under the subsidy, provided that the occupant is not paying more than 30% of gross income on rent and tenant-paid utilities.
- 2) In a project in which affordable dwelling units will be sold, a unit shall be considered an affordable unit if: (a) it is sold to an eligible household whose initial income is less than or equal to 100% of median income; and (b) it is made available at a sales price that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income of 80% of area median income would be paying 30% of gross income towards a mortgage, mortgage insurance, condominium fee and property taxes for a standard thirty-year mortgage at 95% of sales price.
- 3) ELIGIBLE HOUSEHOLD means a household comprised of a single individual or a family eligible for housing under regulations promulgated by the United States Department of Housing and Urban Development, pursuant to **Section 8 of the Housing Act of 1937**, as amended by the **Housing and Community Development Act of 1974**, or any successor federal or state program.
- 4) INCOME, LOW AND MODERATE means a combined household income which is less than or equal to 80 percent of the median income.
- 5) INCOME, MEDIAN means the median income, adjusted for household size, for the Boston Metropolitan Statistical Area published by or calculated from regulations promulgated by the United States Department of Housing and Urban Development, pursuant to **Section 8 of the Housing Act of 1937**, as amended by the **Housing and Community Development Act of 1974**, or any successor federal or state program.
- 6) INCOME, UPPER MODERATE means a combined household income which is less than or equal to 100 percent of the median income.
- 7) PROJECT means any residential or other development, including a cluster development, which results in the construction of new dwelling units, including those set forth in **paragraph 3, subparagraph a, b, or c** herein. Where the project is a life care facility development, as set forth in **paragraph 3, subparagraph c.**, the term “dwelling unit” shall be construed to mean “assisted living unit”.

3. Applicability

In all zoning districts, the provisions of this **§4.08** shall apply to the following uses:

- a. any project that results in any net increase of six or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction or change of existing residential or non-residential space; and
- b. any subdivision of land for development of six or more dwelling units; and
- c. any life care facility development that includes six or more assisted living units and accompanying services.

4. Special Permit Required

The development of any project set forth in **§4.08, paragraph 3.**, above, shall require the grant of a special permit from the Board of Appeals.

5. Required Affordable Units

As a condition for granting any special permit hereunder, applicants shall contribute to the Town's stock of affordable units in accordance with the following requirements:

- a. For projects resulting in a net increase of six or more dwelling units, the applicant shall be required to set aside not less than 15% of the net increase as affordable units, except as the provisions of **subparagraph b.**, below shall apply.
- b. For projects resulting in a net increase of six to 15 dwelling units, the applicant may choose to make a cash payment to the Housing Trust based on the Affordable Housing Guidelines.

6. Standards

Projects containing affordable units shall meet the following standards:

- a. Projects shall not be segmented or phased to avoid compliance with these provisions.
- b. In determining the total number of affordable units required, a fractional unit of 0.5 or more shall be regarded as a whole unit.
- c. The required affordable units shall contain not less than 15% of the bedrooms in the project as a whole.

- d. Affordable units shall be dispersed throughout the project and shall be indistinguishable from market rate units in external appearance. The affordable units shall have the same mechanical systems as market units, except that affordable units with up to two bedrooms may have only one bathroom, affordable units with three bedrooms shall have at least 1.5 bathrooms, and affordable units with four bedrooms shall have at least two bathrooms. Affordable units shall have the same finishes and appliances as the market rate units except where the Director of Planning and Community Development specifically approves, in advance, a request for different finishes and/or appliances.
- e. The affordable units shall contain square footage which is no less than (1) the average size of market rate units containing the same number of bedrooms, or (2) the following, whichever is the smaller:
- | | |
|-------------|------------------|
| 0 bedrooms: | 500 square feet |
| 1 bedroom: | 700 square feet |
| 2 bedrooms: | 900 square feet |
| 3 bedrooms: | 1100 square feet |
| 4 bedrooms: | 1300 square feet |
- f. Floor plans for affordable units which differ from those of market rate units shall not be approved without the recommendation of the Director of Planning and Community Development.
- g. Sales prices, resale prices, initial rents, and rent increases for the affordable units shall be established in accordance with this section, as further clarified in the Affordable Housing Guidelines and shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability.
- h. The Town may establish a system of priorities for selecting buyers or renters, in accordance with the Affordable Housing Guidelines.
- i. The Town may require that lessees of affordable rental units meet income recertification requirements upon renewal of lease terms, in accordance with the Affordable Housing Guidelines.
- j. The Town may require, for itself or its designee, an option to purchase or lease affordable units for amounts consistent with **paragraph 2, subparagraph c.** above. The option shall apply to the initial and any subsequent sale or lease of affordable units.
- k. Affordability restrictions shall be embodied in applicable deed covenants, restrictive covenant agreements, other contractual agreements, land trust arrangements, and/or other mechanisms designed to ensure compliance with this section.

1. Covenants and other documents necessary to ensure compliance with this section shall be executed and, if applicable, recorded prior to and as a condition of the issuance of any building permit or certificate of occupancy, as the Board of Appeals shall deem appropriate.

7. *Alternative Requirements for Affordable Units*

Subject to a finding by the Board of Appeals that the result will be advantageous to the Town in creating or preserving affordable units and not result in the undue concentration of affordable units, the requirements of this section may be satisfied through one or more of the following methods, listed in the order of preference:

- a. Off-Site Location—Affordable units may be located on an alternative site or sites in Brookline suitable for housing use, preferably in the same neighborhood as the on-site development. While off-site affordable units may be located in an existing structure, the potential for displacement of existing tenants shall be considered by the Zoning Board of Appeals.
- b. Conveyance of Land and/or Buildings—The applicant may donate to the Town or its designee land and/or buildings suitable for housing use, preferably in the same neighborhood as the on-site development. Such land and/or buildings shall have a fair market value comparable to the difference between the value of the affordable units required under this **§4.08** if provided on-site and the fair market value of such units free of the conditions set forth in **paragraph 2, subparagraph c.**
- c. Cash Payment—The applicant may make a cash payment to the Town’s Housing Trust with a value comparable to the difference between the value of the affordable units required under this **§4.08** if provided on-site, and the fair market value of such units free of the conditions set forth in **paragraph 2, subparagraph c.**

The applicant’s Affordable Housing Plan shall show that the applicant shall provide a greater affordable housing benefit to the Town than would have been provided on-site. Affordable units provided through the alternative methods above shall comply in all respects other than on-site location with the requirements of this section.

8. *Procedures*

All projects shall comply with the following procedures as applicable:

- a. Pre-Application Meeting—The applicant shall convene a pre-application meeting with the Director of Planning and Community Development to discuss the project proposal and affordable housing requirements.

- b. Submittal of Affordable Housing Plan—The applicant shall fill out and submit an Affordable Housing Plan form to the Planning and Community Development Department prior to making an application for a building permit. This form requires the following information:
- 1) On-Site Unit Projects—Applicants electing to develop on-site affordable units shall provide a schedule of all project units by location, square footage, unit types, number and types of rooms, and location of affordable units.
 - 2) Cash Contribution Projects Under Paragraph 5, Subparagraph b.—Applicants electing to make a cash contribution in lieu of providing affordable units shall provide a statement of the number of project units and the corresponding formula required by the Affordable Housing Guidelines.
 - 3) Alternative Requirements—Applicants proposing to employ **paragraph 7.**, Alternative Requirements for Affordable Units, above shall provide a proposal specifying the land, buildings, off-site affordable units, and/or cash contribution; and a schedule and proposed security for providing these.
- c. Building Permit Application—The applicant shall submit a formal application for a building permit, including the Affordable Housing Plan form.
- d. Board of Appeals Application—The applicant shall make a formal application for a special permit to the Town Clerk.
- e. Housing Advisory Board Review—Except for applications proposing cash contributions under **paragraph 5, subparagraph b.**, the Housing Advisory Board shall, in the next regularly scheduled meeting after necessary public notice, review the Affordable Housing Plan and prepare a recommendation to the Planning Board.
- f. Planning Board Review—The Planning Board shall, in the next regularly scheduled meeting after necessary public notice, hear and make a recommendation on the special permit application. The recommendation of the Housing Advisory Board (or Director of Planning and Community Development with respect to cash contributions under **paragraph 5, subparagraph b.**), shall be considered by the Planning Board. The Planning Board shall explain any deviation from Housing Advisory Board recommendations in writing in its report to the Zoning Board of Appeals.
- g. Zoning Board of Appeals Meeting—The Zoning Board of Appeals shall meet to hear the special permit application. The Board of Appeals decision may require modifications, conditions, and safeguards, including documentation regarding affordability and funding commitments reasonably related hereto. The Zoning Board of Appeals shall explain any deviation from Housing Advisory Board recommendations in writing in its decision.

9. Conditions

- a. The Zoning Board of Appeals shall require that a Revised Affordable Housing Plan, which shall include any conditions in the grant of a special permit from the Zoning Board of Appeals, shall be submitted to the Director of Planning and Community Development for final approval prior to the issuance of a building permit. For projects providing affordable units, the Affordable Housing Plan shall include a reference to specific floor plans of the affordable units that shall be attached to the plan. For projects providing cash or other contributions under **paragraph 5, subparagraph b.** or **paragraph 7.**, the revised Affordable Housing Plan shall set forth a detailed description, if applicable, and schedule for contributions, including any documentation required to secure such, in accordance with the Affordable Housing Guidelines. The Revised Affordable Housing Plan shall be legally binding as part of a special permit which shall refer to it in any decision.
- b. Where set forth as a condition in the approved Revised Affordable Housing Plan, no building permit shall be issued until the applicant submits to the Director of the Department of Planning and Community Development a proper bond, letter of credit, or other financial instrument designed to secure performance of the requirements of this section.
- c. No building permit shall be issued until the applicant submits proof that the special permit decision of the Zoning Board of Appeals has been recorded and that the Director of Planning and Community Development has issued a final approval letter for the Revised Affordable Housing Plan.
- d. The Zoning Board of Appeals may impose conditions in which the Building Commissioner may limit, restrict, or withhold the issuance of a certificate of occupancy for any market rate unit(s) in a development until:
 - 1) all of the affordable units have obtained a certificate of occupancy; or
 - 2) any land, buildings and/or off-site units required to be donated to the Town or its designee have been conveyed.
- e. Prior to issuance of any certificate of occupancy for the project including affordable units, the applicant shall submit to the Director of Planning and Community Development for approval a plan for marketing and selection of occupants; initial rents or sales prices for the units designated as affordable; and, prior to their being recorded, condominium, cooperative or other homeowner association documents, as appropriate. For projects including affordable units for rent, this plan shall be recorded as a part of the affordable housing restriction set forth in **paragraph 6., subparagraphs k. and l.** herein. All plans shall be consistent with the Affordable Housing Guidelines.

10. Affordable Housing Guidelines

The Planning Board, in consultation with the Housing Advisory Board and after public notice and hearing, shall adopt Affordable Housing Guidelines.

11. *Contributions of Cash, Land and/or Buildings*

Cash contributions and donations of land and/or buildings made to the Town or its Housing Trust in accordance with this **§4.08** shall be used only for purposes of providing affordable housing for low, moderate and upper moderate income households as defined by this section.

and

(2) the following Section 5.09 in substitution for the existing Section 5.09:

§5.09 - DESIGN REVIEW

1. Purpose

The purpose of this section is to provide individual detailed review of certain uses and structures which have a substantial impact upon the character of the Town and upon traffic, utilities and property values therein, thereby affecting the public health, safety and general welfare thereof. The design review process is intended to promote the specific purposes listed in **§1.0, paragraph 1.** of this By-law.

2. Scope

In the following categories all new structures and outdoor uses, exterior alterations, exterior additions, and exterior changes which require a building permit under the Building Code, shall require a special permit subject to the community and environmental impact and design review procedures and standards hereinafter specified. Exterior alterations, exterior additions and exterior changes, including fences, walls, and driveways, to residential uses permitted by right in S, SC, and T districts; signs as regulated in **§§ 7.02, and 7.03**; and regulated facade alterations as defined and regulated in **§7.6** shall be exempt from the requirements of this section.

- a. Any structure or outdoor use on a lot any part of which is located in the G-1.75(CC) District or which fronts on or is within 100 feet of: Beacon Street Commonwealth Avenue, Boylston Street, Harvard Street, Brookline Avenue, or Washington Street.
- b. attached dwellings in groups of three or more.

- c. designed groups of single-family dwellings as per **§5.11, paragraph 2.**
 - d. multiple dwellings with 10 or more units on the premises, whether contained in one or more structures.
 - e. lodging houses and hotels.
 - f. gasoline service stations.
 - g. outdoor automobile sales and storage for sales.
 - h. non-residential uses in a non-residential district with more than 10,000 square feet of gross floor area or with 20 or more parking spaces, except municipal facilities in I-1.0 districts when authorized by a two-thirds vote of Town Meeting.
 - i. non-residential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.
 - j. any exterior addition for which a special permit is requested pursuant to **§5.22.**
 - k. any structure for which a variance is requested pursuant to **§9.09, paragraph 1., subparagraph d.**
 - l. all subdivisions of 10 lots or more.
3. Procedures
- a. General
 - 1) Preapplication—Prior to a formal submission to the Building Commissioner, the applicant is strongly encouraged to:
 - a) consult with the Building Commissioner and Planning Director or their designees for technical advice relative to the community and environmental impact and design review standards of this section; and
 - b) meet with abutters, tenants of abutters, Town Meeting Members, neighborhood associations, and other interested citizen groups to review the project plans, and the applicant should actively promote citizen involvement throughout the review process; and

- c) meet with the Planning Director or his/her designee to determine if the Planning Board has adopted design guidelines which pertain to the proposed project; and
 - d) meet with the Transportation Director and the Planning Director or their designees for advice on the preparation of any required transportation studies.
- 2) Application—Applications for uses subject to community and environmental design review shall be submitted to the Building Commissioner and to the Board of Appeals in accordance with the procedure for special permits specified in §§ **9.03 and 9.04**, including the requirements for public notice and hearing and referral to the Planning Board. The report of the Planning Board to the Board of Appeals shall contain a specific evaluation or statement in relation to each of the following:
- a) fulfillment of the preapplication phase of this section;
 - b) designation of the proposal as a major impact project (or exemption as such) as defined in **paragraph 3.**, of this section;
 - c) conformance with each of the standards listed in **paragraph 4.** of this section; and
 - d) conformance with the goals and objectives of the Comprehensive Plan.
 - e) conformance with the Affordable Housing requirements in **§4.08**, where applicable.

The Board of Appeals shall not deny a special permit for any use or condition which requires a special permit solely because it falls into one of the categories listed in **§4.01, paragraph 3.**, unless it finds that the use or condition departs from the standards listed in **paragraph 4.** of this section to such an extent as to produce a serious adverse impact upon the character of the area or upon traffic, utilities and property values therein, thereby adversely affecting the public health, safety, and general welfare. In reviewing applications under this section, the Board of Appeals may require modifications, conditions and safeguards reasonably related to the community and environmental impact and design standards of this section.

- b. Major Impact Projects Only—Prior to formal submission of an application to the Building Commissioner pursuant to this section, the applicant shall consult with the Planning Director and the Building Commissioner or their designees to determine whether such application involves a major impact project which shall be defined as any residential development of 16 units or more, any nonresidential development containing more than 25,000 square feet, or any other project with the potential for substantial environmental impact on the community. If

the proposal is deemed by either official to be a major impact project, then the following procedural requirements shall be completed prior to the filing of an application with the Building Commissioner.

- 1) The applicant shall meet informally with the Planning Director and the Building Commissioner to discuss the development program and the relevant Zoning By-law requirements.
 - 2) The applicant shall submit to the Planning Director or his/her designee a program statement and zoning analysis of the proposed project, schematic site plan, massing model with a photo of the model, and perspective massing studies prior to a preliminary review by the Planning Board. If a floor area bonus is proposed, the applicant shall first present material for a proposal without any bonus and then an alternative with the bonus, indicating the public benefit features possible, if the bonus is granted.
 - 3) The Planning Director or his/her designee shall, in the normal course of notification of the Planning Board's preliminary meeting on the project, send the program statement, zoning analysis, and schematic site plan to the following departments and boards: Building, Engineering/Transportation, Fire, Police, Public Works, Conservation Commission, Economic Development Advisory Board, Preservation Commission, and, if a residential development, the Housing Advisory Board. The enumerated departments and commissions and any other entities with an interest in the project may at their discretion submit in writing a statement of their concerns and recommendations to the Planning Board and Board of Appeals.
 - 4) The Planning Board shall review these materials at a regular Planning Board meeting and shall issue an initial report to the applicant within three weeks of the preliminary meeting. Once the basic environmental aspects of the proposal, and in the case of a residential development project of sixteen units or more, the affordable housing aspects of the proposal, are reviewed by the Planning Board, the applicant may proceed with a formal submission to the Building Commissioner.
- c. All §5.09 Projects—To aid the Board of Appeals in making the findings required in **§9.05** and the Planning Board in preparing the advisory report provided in **§9.04**, the applicant shall submit the following materials in addition to the usual drawings at the time of application to the Building Commissioner:
- 1) Model—An inexpensive study model or final presentation model at a minimum scale of 1 inch equals 20 feet showing the tract, abutting streets, proposed contours, proposed buildings, and the massing of abutting buildings. (Not required for additions, alterations, or changes which increase gross floor area by less than 100 percent.)

- 2) Drawing of Existing Conditions—A drawing showing the location, type, size, or dimension of existing trees, rock masses, and other natural features with designations as to which features will be retained. In order to meet the conditions for approval of a special permit as specified in **§9.05** all existing trees, rock masses, and other natural features shall be retained until a special permit is approved.
- 3) Drawing of Proposal
 - a) Structure—A drawing including color and type of surface materials showing front and rear elevations, and side elevations where there are no adjoining buildings, and floor plans.
 - b) Landscaping—A drawing showing the location, dimensions, and arrangements of all open spaces and yards, including type and size of planting materials, color and type of surface materials, methods to be employed for screening, and proposed grades.
- 4) Photographs—Photographs showing the proposed building site and surrounding properties, and of the model (if required). Applications for alterations and additions shall include photographs showing existing structure or sign to be altered and its relationship to adjacent properties.
- 5) Impact Statement—A statement by applicant with explanation of how each of the community and environmental impact and design standards is incorporated into the design of the proposed development. Where a particular standard is not applicable, a statement to that effect will suffice. An environmental impact statement prepared in accordance with state or Federal regulations may be accepted as a substitute in lieu of this statement.
- 6) Transportation Studies—Certain projects which, due to their size, use characteristics or location, may have a significant impact on traffic require the preparation of transportation studies. The following development threshold levels indicate the nature of studies required. However, additional studies may be required for projects of any size which the Transportation Director or the Planning Director consider may have substantial environmental effects on the community. Any required transportation studies must be prepared in accordance with the Transportation Access Plan Guidelines issued by the Transportation Department.
 - a) Projects with more than 10,000 square feet of non-residential space or 10 dwelling units shall require the preparation of a Project Summary and Project Description.
 - b) Projects with more than 25,000 square feet of non-residential space or 25 dwelling units shall require the preparation of a Transportation Impact

Study and Access Plan and may require the preparation of an Access Plan Agreement.

- c) Projects over 100,000 square feet of non-residential space or 100 residential units shall require the preparation of a Transportation Impact Study and an Access Plan Agreement.
- d) Parking resulting from a Transportation Access Plan Agreement shall receive an annual permit from the Building Department. The permit shall require the fulfillment of all elements of the Transportation Access Plan.

d. Design Advisory Teams

The Planning Board is authorized to appoint a Design Advisory Team (DAT) to provide professional design review assistance to the Planning Board and the Planning Department in the review of certain **\$5.09** projects which may have a significant impact on the character of the area. At the direction of the Planning Board, the applicant may be required to meet with the DAT to discuss resolution of design concerns. Following a meeting with the DAT, the applicant must include in any further submissions its response to issues raised by the DAT. The DAT may also submit a report to the Planning Board for its consideration.

e. Plan Revisions

Any plans revised after a formal application has been made to the Building Commissioner shall be submitted in triplicate to the Building Commissioner prior to the Board of Appeals hearing. Once the Board of Appeals public hearing on the proposal is closed, any plan revision, other than a change governed by a condition of the Board of Appeals approval, which in any way affects or alters the visual appearance of the facade, roof, or cornice line, or modifies the site plan, shall be reviewed by the Building Commissioner and the Planning Director, or their designees. If such revision is deemed by either the Building Commissioner or Planning Director to constitute a change other than a minor modification, the matter shall be referred to the Planning Board for its recommendation in accordance with the community and environmental impact and design review standards of this section and to the Board of Appeals for any action it deems appropriate.

4. Community and Environmental Impact and Design Standards

The following standards shall be utilized by the Board of Appeals and Planning Board in reviewing all site and building plans. These standards are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method of review for the reviewing authority. These standards shall not be regarded as inflexible

requirements. They are not intended to discourage creativity, invention and innovation. The specification of one or more particular architectural styles is not included in these standards. The standards of review outlined in **paragraphs a through o.** below shall also apply to all accessory buildings, structures, freestanding signs and other site features, however related to the major buildings or structures.

- a. Preservation of Landscape—The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- b. Relation of Buildings to Environment—Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. The Board of Appeals may require a modification in massing so as to reduce the effect of shadows on abutting property or on public open space and public streets. The street level of a commercial building should be designed for occupancy and not for parking. Unenclosed street level parking along the frontage of any major street as listed in **paragraph, 2., subparagraph a.** of this section is strongly discouraged. Otherwise, street level parking should be enclosed or screened from view.
- c. Open Space—All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing the site or overlooking it from nearby properties. The location and configuration of usable open space shall be so designed as to encourage social interaction, maximize its utility, and facilitate maintenance. All landscaped open space shall be continuously maintained.
- d. Circulation—With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives, and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.
- e. Surface Water Drainage—Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies and paved areas and carried away in an underground drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.
- f. Utility Service—Electric, telephone, cable TV and other such lines and equipment shall be underground from the source in the public way to all buildings on the site. The location and

screening of transformers and dumpsters shall be indicated on the site plan. The proposed method of sanitary sewage disposal and solid waste disposal shall be indicated.

- g. Advertising Features—The size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.
- h. Special Features—Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures whether on the building or on the ground, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
- i. Safety and Security—With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police, and other emergency personnel and equipment. Insofar as practicable, all exterior spaces and interior public and semi-public spaces be so designed as to minimize the fear and probability of personal harm or injury by increasing the potential surveillance by neighboring residents and passersby of any accident or attempted criminal act.
- j. Heritage—With respect to Brookline's heritage, removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.
- k. Microclimate—With respect to the localized climatic characteristics of a given area, any development which proposes new structures, new hard-surface ground coverage, or the installation of machinery which emits heat, vapor, or fumes, shall endeavor to minimize, insofar as practicable, any adverse impact on light, air, and water resources, or on noise and temperature levels of the immediate environment. The development shall comply with the provisions of the Noise Control By-law.
- l. Energy Efficiency—To the maximum extent possible, proposals shall utilize energy-efficient technology and renewable energy resources and shall adhere to the principles of energy-conscious design with regard to orientation, building materials, shading, landscaping, and other elements. Efforts shall be made to harmonize energy-related components with the character of the building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.
- m. Specific Standards for Beacon Street And Coolidge Corner General Business District
 - 1) A front setback may be required greater than would be required under **§5.54, paragraph 2.**, if deemed necessary to preserve the line of existing facades where this is essential to the purposes of this section.

- 2) Where preservation of the existing roof or cornice line of adjoining buildings is considered necessary to the preservation of the desirable visual quality and property values of a particular part of Beacon Street, or the G-1.75 (CC) District, conformance with that roof or cornice lines may be required; or, in the case of new buildings permitted to be taller than such adjoining buildings, a setback of the building may be required at the level of the adjoining roof or cornice line.
 - 3) Where the nature of the following design features is considered significant to the preservation or enhancement of the desirable visual quality and property values of a particular part of Beacon Street, or of the G-1.75 (CC) District, any new structure or alteration shall be harmoniously related to nearby pre-existing structures and the street facade in terms of color, texture, materials, scale, height, setbacks, roof and cornice lines, signs, and design elements such as door and window size and location, door and window detailing including materials for sills, lintels, frames, and thresholds, and any other major design elements.
- n. Guidelines—The Planning Board is authorized to adopt additional guidelines for specific areas of the Town, subject to public notice, hearing and review by the Planning Board. These guidelines amplify the standards outlined in **subparagraphs a. through l.** above. The goal of these guidelines is to promote building design which is compatible with the character of the Town and its neighborhoods and to avoid negative impacts on these neighborhoods. The guidelines shall be used by the reviewing authority in considering proposals. Strict adherence to the guidelines shall be important in all new development projects but will be especially important where an applicant seeks to take advantage of higher floor area or building height than allowed in **§5.00** by providing public benefits under the provisions of **§5.21** and **§5.32**. The guidelines include, but are not limited to, consideration of the following concerns: building massing and setbacks which may in certain cases be more restrictive than those otherwise specified in this By-law; provision of screening and maintenance of screening between non-residential and residential properties; design and location of parking areas and structures; provision of site vehicular access; provision of streetscape improvements including widened sidewalks and streetscape amenities; design character and materials of building facades; and building design and active uses at first floor level facing a public street.
- o. Limited Service Hotel District (Use 8A)—Notwithstanding the other provisions hereof, no special permit shall be required under **§5.09** for a Use 8A – Limited Service Hotel in the G-1.75 (LSH) Limited Service Hotel District which otherwise satisfies the applicable provisions of this By-law. In the G-1.75 (LSH) Limited Service Hotel District, the area of any floor space intended and designed for on-site or off-site parking which is made available for use by the public in a limited service hotel, and any increase in floor area in any existing building resulting from additional parking provided for use by the public in such building or the lot on which such building is located shall not be included in calculating the gross floor area of any building. In addition, in the G-1.75 Limited Service Hotel District, (i) there shall be no minimum rear yard requirement and no minimum setback requirements (either above or below

grade) for any structure or facility which provides parking for use by the public and which is otherwise permitted under this By-law, and (ii) access drives for any such structure or facility may be located on an adjoining lot and share a common driveway with such lot. Except to the extent specifically otherwise provided in this By-law, all of the provisions of the By-law applicable to the G-1.75 (CC) Coolidge Corner District (including, without limitation, **§5.06, paragraph 2.** shall apply to the G-1.75 (LSH) Limited Service Hotel District.

or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Article 14 was proposed by the Housing Advisory Board (HAB) to provide substitute language for Section 4.08 (previously known as “Section 4.40”), and for Section 5.09 of the Zoning By-Law. These sections originally provided the By-Law’s “Affordable Housing Requirements” and implementation procedures, respectively, for developers of projects creating six or more new residential units. The new Section 4.08 proposed in Article 14 included substantive changes, as well as the incorporation of procedural elements previously found in Section 5.09 (which otherwise remains the same). The proposed article followed several years of experience in implementing the Affordable Housing Requirements, and aimed at increasing the effectiveness of the Zoning By-Law in achieving affordable housing and in meeting Town-specific needs. With regard to the latter, it increased the targeting of the affordable units created to upper-moderate income households, that is, households with incomes up to 100% of metropolitan area median income who cannot afford Brookline’s private housing market but are considered over-income for both state and federal housing subsidies.

Simultaneously, Article 15 was submitted as a citizen petition, aiming at assuring that all units provided under the Affordable Housing Requirements qualify as affordable housing under Massachusetts General Laws Chapter 40B (the Comprehensive Permit Law) – that is, that they serve households with incomes up to 80% of metropolitan area median income, until such time as 10 percent of the Town’s housing units are so qualified. Following discussions with the petitioners for Article 15, the HAB submitted revisions to Article 14, acceptable to the petitioners, providing that at least two-thirds of the affordable units provided under the Zoning By-Law be Chapter 40B eligible. Subsequently, the HAB presented some technical corrections.

The overall goal of the revised Section 4.08 is to increase the supply of affordable housing provided under the By-Law. The revisions complement recent changes to guidelines adopted by the Planning Board for developers of projects of up to 15 units who choose to provide cash in lieu of units. They simplify and clarify the requirements, making the development process more

predictable (for example, by incorporating definitions now found in guidelines and procedures in Seciton 5.09, better specifying applicability, reducing the number of income tiers served, and providing a single target of 15% of units containing 15% of project bedrooms). They reduce developer incentives to downsize projects in order to provide either fewer affordable units or cash (for example, by requiring that affordable units meet certain standards instead of requiring comparability with market-rate units). Finally, they improve the Town’s ability to assure developer compliance (for example, by requiring that development commitments be better detailed and recorded).

The Zoning By-Law is only one tool available to achieve affordable housing and should be used, to the extent possible, to meet Brookline-specific needs. The Board supports the goals of Article 14, and while subsequent changes made in consultation with the petitioners for Article 15 curtail the Town’s flexibility to meet local needs, they represent a compromise which allows the Town to move forward on its affordable housing agenda.

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

VOTED: That the Town amend the Zoning By-Law (references are to the restructured By-Law – see Article 10) by adopting

- (1) the following Section 4.08 in substitution for the existing Section 4.08 (previously known as “Section 4.40”):

§4.08 AFFORDABLE HOUSING REQUIREMENTS

1. Purpose

The purpose of this section is to promote the public welfare by:

- a. increasing the supply of housing that is available and affordable to low or moderate income households, with an emphasis on family housing; and
- b. preventing the displacement of Brookline residents.

2. Definitions

The following definitions shall apply in this **§4.08**. Where a term is undefined herein, the definition set forth in the Affordable Housing Guidelines adopted pursuant to this **§4.08**, if any, shall control. All other undefined terms in this section either be governed by **Article II**, Definitions of this Zoning Bylaw or shall be interpreted in accord with such normal dictionary meaning or customary usage as is appropriate to the context.

- a. AFFORDABLE HOUSING GUIDELINES are written policies and criteria, recommended by the Housing Advisory Board and adopted by the Planning Board, which supplement and serve to aid in the interpretation of this section. They may be revised from time to time without an amendment to the Zoning Bylaw.
- b. AFFORDABLE HOUSING PLAN means a document that constitutes the applicant's showing of compliance with the requirements of this section.
- c. AFFORDABLE UNIT means a dwelling unit which meets the following conditions:
 - 1) In a project in which affordable dwelling units will be rented, a unit shall be considered an affordable unit if: (a) it is rented to an eligible low or moderate income household; and (b) it is made available at an initial rent that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income set at 10 percentage points less than the applicable income limit would be paying 30% of gross income on rent and tenant-paid utilities, unless the occupant has a tenant-based subsidy, in which case the rent may be the amount allowed under the subsidy, provided that the occupant is not paying more than 30% of gross income on rent and tenant-paid utilities.
 - 2) In a project in which affordable dwelling units will be sold, a unit shall be considered an affordable unit if: (a) it is sold to an eligible low or moderate income household ; and (b) it is made available at a sales price that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income set at 10 percentage points less than the applicable income limit would be paying 30% of gross income towards a mortgage, mortgage insurance, condominium fee and property taxes for a standard thirty-year mortgage at 95% of sales price.
- d. ELIGIBLE HOUSEHOLD means a household comprised of a single individual or a family eligible for housing under regulations promulgated by the United States Department of Housing and Urban Development, pursuant to **Section 8 of the Housing Act of 1937**, as amended by the **Housing and Community Development Act of 1974**, or any successor federal or state program.
- e. INCOME, LOW OR MODERATE means a combined household income which is less than or equal to 100% of the median income, except for those units provided under **paragraph 5 subparagraph a** which shall comply under Chapter 40B of the Massachusetts General Laws, in which case low or moderate income shall mean a combined household income which is less or equal to 80% of median income or any other limit established under Chapter 40B, its regulations or any amendment thereto.
- f. INCOME, MEDIAN means the median income, adjusted for household size, for the Boston Metropolitan Statistical Area published by or calculated from regulations

promulgated by the United States Department of Housing and Urban Development, pursuant to **Section 8 of the Housing Act of 1937**, as amended by the **Housing and Community Development Act of 1974**, or any successor federal or state program.

- g. PROJECT means any residential or other development, including a cluster development, which results in the construction of new dwelling units, including those set forth in **paragraph 3, subparagraph a, b, or c** herein. Where the project is a life care facility development, as set forth in **paragraph 3, subparagraph c.**, the term “dwelling unit” shall be construed to mean “assisted living unit”.

3. *Applicability*

In all zoning districts, the provisions of this **§4.08** shall apply to the following uses:

- a. any project that results in any net increase of six or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction or change of existing residential or non-residential space; and
- b. any subdivision of land for development of six or more dwelling units; and
- c. any life care facility development that includes six or more assisted living units and accompanying services.

4. *Special Permit Required*

The development of any project set forth in **§4.08, paragraph 3.**, above, shall require the grant of a special permit from the Board of Appeals.

5. *Required Affordable Units*

As a condition for granting any special permit hereunder, applicants shall contribute to the Town's stock of affordable units in accordance with the following requirements:

- a. For projects resulting in a net increase of six or more dwelling units, the applicant shall be required to set aside 15% of the net increase as affordable units, except as the provisions of **subparagraph d.**, below shall apply. Unless at the time of filing for a building permit for a project the number of housing units in Brookline that are qualified as low or moderate income under the Comprehensive Permit Law (Massachusetts General Laws Chapter 40B, Sections 20-23, and Massachusetts regulations thereunder) exceeds the number needed to meet the standard of requirements or regulations that are “consistent with local needs” in Section 20 of said Comprehensive Permit Law, not less than two-thirds of the required affordable units provided under this subparagraph shall be qualified as low or moderate income units under said Comprehensive Permit Law.

- b. The required affordable units shall contain 15% of the bedrooms in the project as a whole.
- c. In determining the total number of affordable units or bedrooms required in **subparagraphs a. and b.** above, a fractional unit of 0.5 or more shall be regarded as a whole unit or bedroom.
- d. For projects resulting in a net increase of six to 15 dwelling units, the applicant may choose to make a cash payment to the Housing Trust based on the Affordable Housing Guidelines.

6. *Standards*

Projects containing affordable units shall meet the following standards:

- a. Projects shall not be segmented or phased to avoid compliance with these provisions.
- b. Affordable units shall be dispersed throughout the project and shall be indistinguishable from market rate units in external appearance. The affordable units shall have the same mechanical systems as market units, except that affordable units with up to two bedrooms may have only one bathroom, affordable units with three bedrooms shall have at least 1.5 bathrooms, and affordable units with four bedrooms shall have at least two bathrooms. Affordable units shall have the same finishes and appliances as the market rate units except where the Director of Planning and Community Development specifically approves, in advance, a request for different finishes and/or appliances.
- c. The affordable units shall contain square footage which is no less than (1) the average size of market rate units containing the same number of bedrooms, or (2) the following, whichever is the smaller:

0 bedrooms:	500 square feet
1 bedroom:	700 square feet
2 bedrooms:	900 square feet
3 bedrooms:	1100 square feet
4 bedrooms:	1300 square feet

- d. Floor plans for affordable units which differ from those of market rate units shall not be approved without the recommendation of the Director of Planning and Community Development.
- e. Sales prices, resale prices, initial rents, and rent increases for the affordable units shall be established in accordance with this section, as further clarified in the Affordable Housing Guidelines and shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability.

- f. The Town may establish a system of priorities for selecting buyers or renters, in accordance with the Affordable Housing Guidelines.
- g. The Town may require that lessees of affordable rental units meet income recertification requirements upon renewal of lease terms, in accordance with the Affordable Housing Guidelines.
- h. The Town may require, for itself or its designee, an option to purchase or lease affordable units for amounts consistent with **paragraph 2, subparagraph c.** above. The option shall apply to the initial and any subsequent sale or lease of affordable units.
- i. Affordability restrictions shall be embodied in applicable deed covenants, restrictive covenant agreements, other contractual agreements, land trust arrangements, and/or other mechanisms designed to ensure compliance with this section.
- j. Covenants and other documents necessary to ensure compliance with this section shall be executed and, if applicable, recorded prior to and as a condition of the issuance of any building permit or certificate of occupancy, as the Board of Appeals shall deem appropriate.

7. *Alternative Requirements for Affordable Units.*

Subject to a finding by the Board of Appeals that the result will be advantageous to the Town in creating or preserving affordable units and not result in the undue concentration of affordable units, the requirements of this section may be satisfied through one or more of the following methods, listed in the order of preference:

- a. Off-Site Location—Affordable units may be located on an alternative site or sites in Brookline suitable for housing use, preferably in the same neighborhood as the on-site development. While off-site affordable units may be located in an existing structure, the potential for displacement of existing tenants shall be considered by the Zoning Board of Appeals.
- b. Conveyance of Land and/or Buildings—The applicant may donate to the Town or its designee land and/or buildings suitable for housing use, preferably in the same neighborhood as the on-site development. Such land and/or buildings shall have a fair market value comparable to the difference between the value of the affordable units required under this **§4.08** if provided on-site and the fair market value of such units free of the conditions set forth in **paragraph 2, subparagraph c.**
- c. Cash Payment—The applicant may make a cash payment to the Town’s Housing Trust with a value comparable to the difference between the value of the affordable units

required under this **§4.08** if provided on-site, and the fair market value of such units free of the conditions set forth in **paragraph 2, subparagraph c.**

The applicant's Affordable Housing Plan shall show that the applicant shall provide a greater affordable housing benefit to the Town than would have been provided on site. Affordable units provided through the alternative methods above shall comply in all respects other than on-site location with the requirements of this section.

8. *Procedures*

All projects shall comply with the following procedures as applicable:

- a. Pre-Application Meeting—The applicant shall convene a pre-application meeting with the Director of Planning and Community Development to discuss the project proposal and affordable housing requirements.
- b. Submittal of Affordable Housing Plan—The applicant shall fill out and submit an Affordable Housing Plan form to the Planning and Community Development Department prior to making an application for a building permit. This form requires the following information:
 - 1) On-Site Unit Projects—Applicants electing to develop on-site affordable units shall provide a schedule of all project units by location, square footage, unit types, number and types of rooms, and location of affordable units.
 - 2) Cash Contribution Projects Under Paragraph 5, Subparagraph b.—Applicants electing to make a cash contribution in lieu of providing affordable units shall provide a statement of the number of project units and the corresponding formula required by the Affordable Housing Guidelines.
 - 3) Alternative Requirements—Applicants proposing to employ **paragraph 7.**, Alternative Requirements for Affordable Units, above shall provide a proposal specifying the land, buildings, off-site affordable units, and/or cash contribution; and a schedule and proposed security for providing these.
- c. Building Permit Application—The applicant shall submit a formal application for a building permit, including the Affordable Housing Plan form.
- d. Board of Appeals Application—The applicant shall make a formal application for a special permit to the Town Clerk.

- e. Housing Advisory Board Review—Except for applications proposing cash contributions under **paragraph 5, subparagraph b.**, the Housing Advisory Board shall, in the next regularly scheduled meeting after necessary public notice, review the Affordable Housing Plan and prepare a recommendation to the Planning Board.
- f. Planning Board Review—The Planning Board shall, in the next regularly scheduled meeting after necessary public notice, hear and make a recommendation on the special permit application. The recommendation of the Housing Advisory Board (or Director of Planning and Community Development with respect to cash contributions under **paragraph 5, subparagraph b.**), shall be considered by the Planning Board. The Planning Board shall explain any deviation from Housing Advisory Board recommendations in writing in its report to the Zoning Board of Appeals.
- g. Zoning Board of Appeals Meeting—The Zoning Board of Appeals shall meet to hear the special permit application. The Board of Appeals decision may require modifications, conditions, and safeguards, including documentation regarding affordability and funding commitments reasonably related hereto. The Zoning Board of Appeals shall explain any deviation from Housing Advisory Board recommendations in writing in its decision.

9. *Conditions*

- a. The Zoning Board of Appeals shall require that a Revised Affordable Housing Plan, which shall include any conditions in the grant of a special permit from the Zoning Board of Appeals, shall be submitted to the Director of Planning and Community Development for final approval prior to the issuance of a building permit. For projects providing affordable units, the Affordable Housing Plan shall include a reference to specific floor plans of the affordable units that shall be attached to the plan. For projects providing cash or other contributions under **paragraph 5, subparagraph b.** or **paragraph 7.**, the revised Affordable Housing Plan shall set forth a detailed description, if applicable, and schedule for contributions, including any documentation required to secure such, in accordance with the Affordable Housing Guidelines. The Revised Affordable Housing Plan shall be legally binding as part of a special permit which shall refer to it in any decision.
- b. Where set forth as a condition in the approved Revised Affordable Housing Plan, no building permit shall be issued until the applicant submits to the Director of the Department of Planning and Community Development a proper bond, letter of credit, or other financial instrument designed to secure performance of the requirements of this section.
- c. No building permit shall be issued until the applicant submits proof that the special permit decision of the Zoning Board of Appeals has been recorded and that the Director of Planning and Community Development has issued a final approval letter for the Revised Affordable Housing Plan.

- d. The Zoning Board of Appeals may impose conditions in which the Building Commissioner may limit, restrict, or withhold the issuance of a certificate of occupancy for any market rate unit(s) in a development until:
 - 1) all of the affordable units have obtained a certificate of occupancy; or
 - 2) any land, buildings and/or off-site units required to be donated to the Town or its designee have been conveyed.

- e. Prior to issuance of any certificate of occupancy for the a project including affordable units, the applicant shall submit to the Director of Planning and Community Development for approval a plan for marketing and selection of occupants; initial rents or sales prices for the units designated as affordable; and, prior to their being recorded, condominium, cooperative or other homeowner association documents, as appropriate. For projects including affordable units for rent, this plan shall be recorded as a part of the affordable housing restriction set forth in **paragraph 6., subparagraphs k. and l.** herein. All plans shall be consistent with the Affordable Housing Guidelines.

10. Affordable Housing Guidelines

The Planning Board, in consultation with the Housing Advisory Board and after public notice and hearing, shall adopt Affordable Housing Guidelines.

11. Contributions of Cash, Land and/or Buildings

Cash contributions and donations of land and/or buildings made to the Town or its Housing Trust in accordance with this **§4.08** shall be used only for purposes of providing affordable housing for low or moderate income households as defined by this section.

and

- (2) the following Section 5.09 in substitution for the existing Section 5.09:

§5.09 - DESIGN REVIEW

1. Purpose

The purpose of this section is to provide individual detailed review of certain uses and structures which have a substantial impact upon the character of the Town and upon traffic,

utilities and property values therein, thereby affecting the public health, safety and general welfare thereof. The design review process is intended to promote the specific purposes listed in **§1.0, paragraph 1.** of this By-law.

2. Scope

In the following categories all new structures and outdoor uses, exterior alterations, exterior additions, and exterior changes which require a building permit under the Building Code, shall require a special permit subject to the community and environmental impact and design review procedures and standards hereinafter specified. Exterior alterations, exterior additions and exterior changes, including fences, walls, and driveways, to residential uses permitted by right in S, SC, and T districts; signs as regulated in §§ **7.02, and 7.03**; and regulated facade alterations as defined and regulated in **§7.6** shall be exempt from the requirements of this section.

- a. Any structure or outdoor use on a lot any part of which is located in the G-1.75(CC) District or which fronts on or is within 100 feet of: Beacon Street Commonwealth Avenue, Boylston Street, Harvard Street, Brookline Avenue, or Washington Street.
- b. attached dwellings in groups of three or more
- c. designed groups of single-family dwellings as per **§5.11, paragraph 2.**
- d. multiple dwellings with 10 or more units on the premises, whether contained in one or more structures
- e. lodging houses and hotels
- f. gasoline service stations
- g. outdoor automobile sales and storage for sales
- h. non-residential uses in a non-residential district with more than 10,000 square feet of gross floor area or with 20 or more parking spaces, except municipal facilities in I-1.0 districts when authorized by a two-thirds vote of Town Meeting
- i. non-residential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces
- j. any exterior addition for which a special permit is requested pursuant to **§5.22**
- k. any structure for which a variance is requested pursuant to **§9.09, paragraph 1., subparagraph d.**

1. all subdivisions of 10 lots or more.

3. Procedures

a. General

- 1) Preapplication—Prior to a formal submission to the Building Commissioner, the applicant is strongly encouraged to:
 - a) consult with the Building Commissioner and Planning Director or their designees for technical advice relative to the community and environmental impact and design review standards of this section; and
 - b) meet with abutters, tenants of abutters, Town Meeting Members, neighborhood associations, and other interested citizen groups to review the project plans, and the applicant should actively promote citizen involvement throughout the review process; and
 - c) meet with the Planning Director or his/her designee to determine if the Planning Board has adopted design guidelines which pertain to the proposed project; and
 - d) meet with the Transportation Director and the Planning Director or their designees for advice on the preparation of any required transportation studies.
- 2) Application—Applications for uses subject to community and environmental design review shall be submitted to the Building Commissioner and to the Board of Appeals in accordance with the procedure for special permits specified in §§ 9.03 and 9.04, including the requirements for public notice and hearing and referral to the Planning Board. The report of the Planning Board to the Board of Appeals shall contain a specific evaluation or statement in relation to each of the following:
 - a) fulfillment of the preapplication phase of this section;
 - b) designation of the proposal as a major impact project (or exemption as such) as defined in **paragraph 3.**, of this section;
 - c) conformance with each of the standards listed in **paragraph 4.** of this section; and
 - d) conformance with the goals and objectives of the Comprehensive Plan.
 - e) conformance with the Affordable Housing requirements in §4.08, where applicable.

The Board of Appeals shall not deny a special permit for any use or condition which requires a special permit solely because it falls into one of the categories listed in **§4.01, paragraph 3.**, unless it finds that the use or condition departs from the standards listed in **paragraph 4.** of this section to such an extent as to produce a serious adverse impact upon the character of the area or upon traffic, utilities and property values therein, thereby adversely affecting the public health, safety, and general welfare. In reviewing applications under this section, the Board of Appeals may require modifications, conditions and safeguards reasonably related to the community and environmental impact and design standards of this section.

- b. Major Impact Projects Only—Prior to formal submission of an application to the Building Commissioner pursuant to this section, the applicant shall consult with the Planning Director and the Building Commissioner or their designees to determine whether such application involves a major impact project which shall be defined as any residential development of 16 units or more, any nonresidential development containing more than 25,000 square feet, or any other project with the potential for substantial environmental impact on the community. If the proposal is deemed by either official to be a major impact project, then the following procedural requirements shall be completed prior to the filing of an application with the Building Commissioner.
- 1) The applicant shall meet informally with the Planning Director and the Building Commissioner to discuss the development program and the relevant Zoning By-law requirements.
 - 2) The applicant shall submit to the Planning Director or his/her designee a program statement and zoning analysis of the proposed project, schematic site plan, massing model with a photo of the model, and perspective massing studies prior to a preliminary review by the Planning Board. If a floor area bonus is proposed, the applicant shall first present material for a proposal without any bonus and then an alternative with the bonus, indicating the public benefit features possible, if the bonus is granted.
 - 3) The Planning Director or his/her designee shall, in the normal course of notification of the Planning Board's preliminary meeting on the project, send the program statement, zoning analysis, and schematic site plan to the following departments and boards: Building, Engineering/Transportation, Fire, Police, Public Works, Conservation Commission, Economic Development Advisory Board, Preservation Commission, and, if a residential development, the Housing Advisory Board. The enumerated departments and commissions and any other entities with an interest in the project may at their discretion submit in writing a statement of their concerns and recommendations to the Planning Board and Board of Appeals.

- 4) The Planning Board shall review these materials at a regular Planning Board meeting and shall issue an initial report to the applicant within three weeks of the preliminary meeting. Once the basic environmental aspects of the proposal, and in the case of a residential development project of sixteen units or more, the affordable housing aspects of the proposal, are reviewed by the Planning Board, the applicant may proceed with a formal submission to the Building Commissioner.
- c. All §5.09 Projects—To aid the Board of Appeals in making the findings required in **§9.05** and the Planning Board in preparing the advisory report provided in **§9.04**, the applicant shall submit the following materials in addition to the usual drawings at the time of application to the Building Commissioner:
- 1) Model—An inexpensive study model or final presentation model at a minimum scale of 1 inch equals 20 feet showing the tract, abutting streets, proposed contours, proposed buildings, and the massing of abutting buildings. (Not required for additions, alterations, or changes which increase gross floor area by less than 100%.)
 - 2) Drawing of Existing Conditions—A drawing showing the location, type, size, or dimension of existing trees, rock masses, and other natural features with designations as to which features will be retained. In order to meet the conditions for approval of a special permit as specified in **§9.05** all existing trees, rock masses, and other natural features shall be retained until a special permit is approved.
 - 3) Drawing of Proposal
 - a) Structure—A drawing including color and type of surface materials showing front and rear elevations, and side elevations where there are no adjoining buildings, and floor plans.
 - b) Landscaping—A drawing showing the location, dimensions, and arrangements of all open spaces and yards, including type and size of planting materials, color and type of surface materials, methods to be employed for screening, and proposed grades.
 - 4) Photographs—Photographs showing the proposed building site and surrounding properties, and of the model (if required). Applications for alterations and additions shall include photographs showing existing structure or sign to be altered and its relationship to adjacent properties.
 - 5) Impact Statement—A statement by applicant with explanation of how each of the community and environmental impact and design standards is incorporated into the design of the proposed development. Where a particular standard is not applicable, a statement to that effect will suffice. An environmental impact statement prepared in

accordance with state or Federal regulations may be accepted as a substitute in lieu of this statement.

- 6) Transportation Studies—Certain projects which, due to their size, use characteristics or location, may have a significant impact on traffic require the preparation of transportation studies. The following development threshold levels indicate the nature of studies required. However, additional studies may be required for projects of any size which the Transportation Director or the Planning Director consider may have substantial environmental effects on the community. Any required transportation studies must be prepared in accordance with the Transportation Access Plan Guidelines issued by the Transportation Department.
- a) Projects with more than 10,000 square feet of non-residential space or 10 dwelling units shall require the preparation of a Project Summary and Project Description.
 - b) Projects with more than 25,000 square feet of non-residential space or 25 dwelling units shall require the preparation of a Transportation Impact Study and Access Plan and may require the preparation of an Access Plan Agreement.
 - c) Projects over 100,000 square feet of non-residential space or 100 residential units shall require the preparation of a Transportation Impact Study and an Access Plan Agreement.
 - d) Parking resulting from a Transportation Access Plan Agreement shall receive an annual permit from the Building Department. The permit shall require the fulfillment of all elements of the Transportation Access Plan.

d. Design Advisory Teams

The Planning Board is authorized to appoint a Design Advisory Team (DAT) to provide professional design review assistance to the Planning Board and the Planning Department in the review of certain **§5.09** projects which may have a significant impact on the character of the area. At the direction of the Planning Board, the applicant may be required to meet with the DAT to discuss resolution of design concerns. Following a meeting with the DAT, the applicant must include in any further submissions its response to issues raised by the DAT. The DAT may also submit a report to the Planning Board for its consideration.

e. Plan Revisions

Any plans revised after a formal application has been made to the Building Commissioner shall be submitted in triplicate to the Building Commissioner prior to the Board of

Appeals hearing. Once the Board of Appeals public hearing on the proposal is closed, any plan revision, other than a change governed by a condition of the Board of Appeals approval, which in any way affects or alters the visual appearance of the facade, roof, or cornice line, or modifies the site plan, shall be reviewed by the Building Commissioner and the Planning Director, or their designees. If such revision is deemed by either the Building Commissioner or Planning Director to constitute a change other than a minor modification, the matter shall be referred to the Planning Board for its recommendation in accordance with the community and environmental impact and design review standards of this section and to the Board of Appeals for any action it deems appropriate.

4. Community and Environmental Impact and Design Standards

The following standards shall be utilized by the Board of Appeals and Planning Board in reviewing all site and building plans. These standards are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method of review for the reviewing authority. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The specification of one or more particular architectural styles is not included in these standards. The standards of review outlined in **paragraphs a through o.** below shall also apply to all accessory buildings, structures, freestanding signs and other site features, however related to the major buildings or structures.

- a. Preservation of Landscape—The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- b. Relation of Buildings to Environment—Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. The Board of Appeals may require a modification in massing so as to reduce the effect of shadows on abutting property or on public open space and public streets. The street level of a commercial building should be designed for occupancy and not for parking. Unenclosed street level parking along the frontage of any major street as listed in **paragraph, 2., subparagraph a.** of this section is strongly discouraged. Otherwise, street level parking should be enclosed or screened from view.
- c. Open Space—All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing the site or overlooking it from nearby properties. The location and configuration of usable open space shall be so designed as to encourage social interaction, maximize its utility, and facilitate maintenance. All landscaped open space shall be continuously maintained.

- d. Circulation—With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives, and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.
- e. Surface Water Drainage—Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies and paved areas and carried away in an underground drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.
- f. Utility Service—Electric, telephone, cable TV and other such lines and equipment shall be underground from the source in the public way to all buildings on the site. The location and screening of transformers and dumpsters shall be indicated on the site plan. The proposed method of sanitary sewage disposal and solid waste disposal shall be indicated.
- g. Advertising Features—The size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.
- h. Special Features—Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures whether on the building or on the ground, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
- i. Safety and Security—With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police, and other emergency personnel and equipment. Insofar as practicable, all exterior spaces and interior public and semi-public spaces be so designed as to minimize the fear and probability of personal harm or injury by increasing the potential surveillance by neighboring residents and passersby of any accident or attempted criminal act.
- j. Heritage—With respect to Brookline's heritage, removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

- k. Microclimate—With respect to the localized climatic characteristics of a given area, any development which proposes new structures, new hard-surface ground coverage, or the installation of machinery which emits heat, vapor, or fumes, shall endeavor to minimize, insofar as practicable, any adverse impact on light, air, and water resources, or on noise and temperature levels of the immediate environment. The development shall comply with the provisions of the Noise Control By-law.
- l. Energy Efficiency—To the maximum extent possible, proposals shall utilize energy-efficient technology and renewable energy resources and shall adhere to the principles of energy-conscious design with regard to orientation, building materials, shading, landscaping, and other elements. Efforts shall be made to harmonize energy-related components with the character of the building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.
- m. Specific Standards for Beacon Street And Coolidge Corner General Business District
- 1) A front setback may be required greater than would be required under **§5.54, paragraph 2.**, if deemed necessary to preserve the line of existing facades where this is essential to the purposes of this section.
 - 2) Where preservation of the existing roof or cornice line of adjoining buildings is considered necessary to the preservation of the desirable visual quality and property values of a particular part of Beacon Street, or the G-1.75 (CC) District, conformance with that roof or cornice lines may be required; or, in the case of new buildings permitted to be taller than such adjoining buildings, a setback of the building may be required at the level of the adjoining roof or cornice line.
 - 3) Where the nature of the following design features is considered significant to the preservation or enhancement of the desirable visual quality and property values of a particular part of Beacon Street, or of the G-1.75 (CC) District, any new structure or alteration shall be harmoniously related to nearby pre-existing structures and the street facade in terms of color, texture, materials, scale, height, setbacks, roof and cornice lines, signs, and design elements such as door and window size and location, door and window detailing including materials for sills, lintels, frames, and thresholds, and any other major design elements.
- n. Guidelines—The Planning Board is authorized to adopt additional guidelines for specific areas of the Town, subject to public notice, hearing and review by the Planning Board. These guidelines amplify the standards outlined in **subparagraphs a. through l.** above. The goal of these guidelines is to promote building design which is compatible with the character of the Town and its neighborhoods and to avoid negative impacts on these neighborhoods. The guidelines shall be used by the reviewing authority in considering proposals. Strict adherence to the guidelines shall be important in all new development

projects but will be especially important where an applicant seeks to take advantage of higher floor area or building height than allowed in **§5.00** by providing public benefits under the provisions of **§5.21** and **§5.32**. The guidelines include, but are not limited to, consideration of the following concerns: building massing and setbacks which may in certain cases be more restrictive than those otherwise specified in this By-law; provision of screening and maintenance of screening between non-residential and residential properties; design and location of parking areas and structures; provision of site vehicular access; provision of streetscape improvements including widened sidewalks and streetscape amenities; design character and materials of building facades; and building design and active uses at first floor level facing a public street.

- o. Limited Service Hotel District (Use 8A)—Notwithstanding the other provisions hereof, no special permit shall be required under **§5.09** for a Use 8A – Limited Service Hotel in the G-1.75 (LSH) Limited Service Hotel District which otherwise satisfies the applicable provisions of this By-law. In the G-1.75 (LSH) Limited Service Hotel District, the area of any floor space intended and designed for on-site or off-site parking which is made available for use by the public in a limited service hotel, and any increase in floor area in any existing building resulting from additional parking provided for use by the public in such building or the lot on which such building is located shall not be included in calculating the gross floor area of any building. In addition, in the G-1.75 Limited Service Hotel District, (i) there shall be no minimum rear yard requirement and no minimum setback requirements (either above or below grade) for any structure or facility which provides parking for use by the public and which is otherwise permitted under this By-law, and (ii) access drives for any such structure or facility may be located on an adjoining lot and share a common driveway with such lot. Except to the extent specifically otherwise provided in this By-law, all of the provisions of the By-law applicable to the G-1.75 (CC) Coolidge Corner District (including, without limitation, **§5.06, paragraph 2.** shall apply to the G-1.75 (LSH) Limited Service Hotel District.

ADVISORY COMMITTEE’S RECOMMENDATION

The Advisory Committee considered Articles 14 and 15 together as they are related and the petitioner of Article 14, the Housing Advisory Board (“HAB”), and the citizen petitioner of Article 15 have now joined in recommending a combined proposed amendment to the Restructured Zoning By-Law, Section 4.08, Affordable Housing Requirements, and to Section 5.09, Design Review.

BACKGROUND

The present Zoning By-Law section on affordable housing is Section 4.40. Under the restructured By-Law, Section 4.08 will be the Section that deals with affordable housing. Please note that the

language in the draft of the Restructured Zoning By-Law contains the old 4.40 wording, but places it in Section 4.08.

Section 5.09, Community and Environmental Impact and Design Review, is also the same under the Article 10 restructuring as in the present Zoning By-Law. This proposal takes the present subparagraph (c.) (4) (vii), regarding affordable housing, out of Section 5.09 section. It is included in the language of the proposed Section 4.08.

Both the proponents of Article 15 and the HAB have worked diligently to provide a revised Article 14, and are in support of the revised article.

DISCUSSION

The challenge before the Town is to increase the number of affordable units in Brookline. We presently require that developers who are building more than 6 housing units in a development must include affordable housing units, or if they are building between 6 and 15 units they may instead make a cash payment to the Housing Trust Fund. This revised Article 14 both clarifies and makes the by-law more predictable and also will encourage more units to be built on-site. It allows reduced standards (square footage and luxurious materials) than the market rate units in the same development. The threshold of the minimum required number of units that must provide housing units is still 15. Developments with 6-14 units can provide money in lieu of actual units as in the current by-law.

The proposal requires that a straight 15% of all units and 15% of all the bedrooms must be affordable units. This is a change from the current zoning, which allows a variable range of 10-20%. The 10-20% depend on: (1) proportion of each income group targeted (fewer units required if lower income); (2) number of bedrooms per unit (fewer units if more bedrooms); (3) availability of public subsidies (lower percent if public subsidies not available).

In addition, the revised proposal would:

- (1) Simplify targeting of income groups.
- (2) Serve Brookline-specific needs.
- (3) End incentives for developers to downsize projects and give cash.
- (4) Improve developer compliance.

The Advisory Committee was encouraged that the proponents of Article 15 as well as the HAB are in agreement on the revised language of Article 14. Although this change to the by-law will not bring the quantity of affordable housing up to the 10% required by the State to escape the provisions of Massachusetts General Laws, Chapter 40B, it will make compliance for future developments easier than it currently is and should encourage the development of more affordable units in new construction.

14-36

RECOMMENDATION

The Advisory Committee by a nearly unanimous vote recommends **FAVORABLE ACTION** on the vote offered by the Selectmen.

XXX

ARTICLE 15FIFTEENTH ARTICLE

To see if the Town will replace the existing text of Section 4.08(3)(e) 1) (references are to the Restructured By-Law) of the Zoning By-Law with the following:

If at the time of filing an application for a building permit the number of units in the Town that are qualified as low or moderate income units under the Comprehensive Permit Law (Mass. General Laws Chapter 40B, Sections 20-23, and regulations thereunder) is more than 10% of the total units attributed to the Town, then of the affordable units, 25% shall serve low, 50% moderate, and 25% upper moderate income households; otherwise all of the affordable units shall qualify for at least 100 years as low or moderate income units under said Comprehensive Permit Law,

or act on anything relative thereto.

This article has been filed to bring Brookline's inclusionary zoning into alignment with the state's Comprehensive Permit Law, Sections 20-23 in Chapter 40B of the Mass. General Laws, and state regulations adopted under authority of the law.

Until Brookline reaches its quota of low or moderate income housing units, every neighborhood remains exposed to threats of massive development, with none of the protections of zoning.

With the proposed change, all "affordable housing" required by zoning must also be a permanent contribution to units qualified under the Comprehensive Permit Law, until Brookline satisfies its quota. After that, inclusionary zoning reverts to locally determined requirements.

Brookline should be satisfying its longstanding commitment to low-cost housing in a way that also helps protect its neighborhoods.

SELECTMEN'S RECOMMENDATION

This citizen petition aims at requiring that the affordable units created under the Town's Zoning By-Law (now Section 4.08) qualify as affordable housing under Massachusetts General Laws Chapter 40B (the Comprehensive Permit Law) until such time as 10% of the Town's housing units are so qualified. As Article 14 was revised as a compromise with the petitioners for Article 15, the Board recommends NO ACTION, by a vote of 5-0, on this article.

ADVISORY COMMITTEE'S RECOMMENDATION

The Petitioner of Article 14, the Housing Advisory Board ("HAB"), and the citizen petitioner of Article 15 have now joined in recommending a combined proposed amendment to the Restructured Zoning By-Law, Section 4.08, Affordable Housing Requirements, and to Section 5.09, Design Review. This vote is offered under Article 14. The Advisory Committee therefore unanimously recommends NO ACTION on this article.

XXX

ARTICLE 16SIXTEENTH ARTICLE

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

By deleting Section 5.6.3. (c) and substituting new sections 3 (c) and 3 (d) therefor:

"(c) St. Aidan's Local Historic District

There is hereby established an Historic District, to be entitled the "St. Aidan's Historic District", the boundaries of which shall be shown on the map entitled "St. Aidan's Historic District" which accompanies and is hereby declared to be part of this By-law.

(d) 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.

On May 24, 2001, Town Meeting, Article 22 called upon

the Brookline Preservation Commission, acting under Article 5.6 of the By-laws of the Town and under Chapter 40c of the General Laws, to conduct an investigation and public hearing for designating the St. Aidan's Church property, ...,or any portion thereof or structures portions thereon, as an historic district in the Town of Brookline. It also called on the Commission to submit a report of its findings, together with proposed actions, if, any, to the next Special or Annual Town Meeting held after July 31,2001.

A study report prepared by the Commission staff was undertaken to describe the historical, architectural, and cultural significance of the property. After the report was completed, in accordance with M.G.L. Chapter 40C it was sent to the Massachusetts Historical Commission and the Brookline Planning Board for comment and a public hearing was held to gather public

comment and input. The Commission at its January 15, 2002 meeting accepted the report with editorial revisions.

Based on the conclusions in the report, the Brookline Preservation Commission voted at its February 12, 2002 meeting to recommend the establishment of a St. Aidan's Local Historic District and to forward to Town Meeting the report and a warrant article for the establishment of the Historic District.

Under Article 5.6, Preservation Commission and Historic Districts By-law, of the Town By-law, any proposed local historic district must be approved by a 2/3 vote of Town Meeting. There are currently two local historic districts in Brookline: Cottage Farm, established in 1979, and Pill Hill, established in 1983.

**Preservation Commission's Report on the Proposed St. Aidan's Church
Proposed St. Aidan's Church Historic District**

Boundary and Neighborhood Description

The St. Aidan's Church property consists of two parcels of land in a residential neighborhood of North Brookline, Massachusetts. Owned by the Roman Catholic Archdiocese of Boston, this property was individually listed in the National and State Registers of Historic Places as part of a Multiple Resource Nomination in 1985. The parcel at 158 Pleasant Street includes the Rectory and 10,000 square feet of land. The parcel at 207 Freeman Street includes the church and two garages with 69,615 square feet of land. The total area of land is 79,615 square feet located on the Town of Brookline Assessor's Map Area 027, lots 01 and 02-03. The properties are bounded on the east by Pleasant Street, on the north by Crowninshield Road, and on the south by Freeman Street. The western edge of the properties are bounded by numbers 95 Crowninshield Road, 217 Freeman Street, and an unnamed alley providing access to 217 Freeman Street.

North of the church property are single-family houses on Crowninshield Road, Copley, Elba and Adams Streets. Thirty-seven of these houses were built between 1901-1920, while another twenty date from 1921-1930. Two were constructed in the late twentieth century. Many of these houses reflect the same Arts & Crafts stylistic influences that are characteristic of St. Aidan's Church.

West and south of St. Aidan's Church are Freeman, Babcock, Stetson and Browne Streets and Craig Place. These streets have a mixture of apartment blocks and duplexes, as well as houses built as single-family homes. The structures are varied in date of construction and architectural character. At 217 Freeman Street on a rise behind the church is a Gothic Revival style cottage that is estimated to have been built in the 1850s and listed individually in the National Register of Historic Places. (This property is now undergoing major alterations.) On Freeman Street, Browne Street and Craig Place are predominantly two and three family houses, along with a large apartment block complex opposite Freeman Square erected in 1923. Stetson and Babcock Streets feature a mixture of houses built as single-family homes and apartment blocks. The majority of these structures vary in age from the 1880s to the 1920s with a few apartment houses built in the late twentieth century.

West of Babcock Street on Osborne, Abbottsford and Manchester Roads is the Graffam Development Historic District. This district is listed in the State and National Registers of Historic Places. The houses in this district represent the initial middle class residential development of the neighborhood that includes the second home of Joseph and Rose Kennedy, 51 Abbottsford Road. South of the Graffam Development Historic District is the house at 83 Beals

Street where President Kennedy was born. The John F. Kennedy Birthplace is a National Historic Landmark.

Pleasant Street provides a sharply defined visual boundary. On the east side of Pleasant Street are multi-family apartment houses. One block (185-199 Pleasant Street) was constructed in the 1920s, but the largest structures (175 Freeman Street, 125-135 Pleasant Street) date from the 1970s and are much different in scale and materials than the buildings west of Pleasant Street. These apartment houses separate the St. Aidan's property from Winthrop Square and the Cottage Farm Local Historic District.

Historical and Architectural Development

The St. Aidan's property constitutes the western edge of the area roughly bounded by Pleasant, Dummer, Prescott and Beacon Streets initially developed by the Sears family in the 1840s-50s. The area west of the Parker and Crowninshield estates, in the vicinity of Babcock Street, consisted mostly of farmland with a few scattered houses until the 1890s. The widening of Beacon Street in 1889-90 and the construction of a trolley line along it brought the beginning of extensive development west of Pleasant Street. The area east of Pleasant Street with its large single-family homes survived until the early 1900s when the large houses began to be demolished either for single-family homes or multi-family houses and apartment blocks.

The St. Aidan's Church property is located in a neighborhood first developed in the 1850s as suburban estates owned by wealthy Bostonians. This coincided with the construction of Beacon Street as a county road linked to the Mill Dam Road and Boston in 1850. The present

rectory is a house constructed in about 1855 for Edward G. Parker, an attorney with an office on Court Street in Boston. The Parker property, a lot of approximately 47,000 square feet, was adjacent to the Crowninshield Estate. The Crowninshield Estate extended north in the area bounded by Crowninshield Road, Pleasant Street and Commonwealth Avenue. Across Pleasant Street on the site of the present 1970s Dexter Park development was the house built by David Sears in 1843 when he first began to lay out the streets and parks that constitute the Cottage Farm and Longwood neighborhoods. Sears built houses for all of his daughters, Harriet Crowninshield being one of them. Because the area was owned largely controlled by members of the Sears family, little development occurred along Pleasant Street and east to the Boston line until the late nineteenth century after the passing of the first generation of property owners.

The land for St. Aidan's Church was acquired in 1910 after Archbishop William H. O'Connell established the new St. Aidan's parish. The parish included the area between Beacon Street and Commonwealth Avenue extending to St. Mary's Street on the east and Cleveland Circle on the west. It was the third of four Catholic parishes in Brookline, the previous two being St. Mary's in Brookline Village (1852) and St. Lawrence in the Chestnut Hill/Fisher Hill vicinity (1897). The establishment of St. Aidan's coincided with the growth and development of the residential neighborhoods of North Brookline and Brighton. Local residents held a variety of events to raise money for the construction of the church. Many prominent supporters lived on Naples Road, Coolidge Street, Manchester Street and Beals Street. Plans for the new church were announced in February 1911 and the cornerstone was laid in May of that year. The church was

dedicated on November 17, 1912, Cardinal O'Connor officiating as he had when the cornerstone was laid.

The design of the church was planned to be compatible in scale and materials with the typical single-family homes that were being built in Brookline at that time. South of Freeman Street the neighborhood consisted primarily of single-family homes with a few apartment blocks. Across Pleasant Street between Freeman and Dummer Streets were three houses on large lots that had been built by the Sears family in the mid-nineteenth century. At least two of these buildings were designed in the Gothic Revival style. (One still survives at 16 Copley Street where it was moved and remodeled in 1916.) Three large single-family homes also still survived on Still Street opposite Winthrop Park and these later became St. Aidan's convent and school. After the school was closed they were sold and subsequently demolished for apartment houses in 1971. The Crowninshield House had been demolished in 1899. A small Gothic Revival style cottage at 217 Freeman Street behind the church was apparently moved to its present site and may have been part of another estate. Crowninshield Road was laid out in 1900, after which houses were constructed on both sides of the street.

When the plans for the church were first made public in 1910, it was clear that an important design consideration was for the church to fit into the neighborhood. Although some apartment blocks were being constructed, the majority of new structures in the area were single and two-family homes on tree-lined streets designed in the variety of historical styles popular at that time, many featuring Arts & Crafts style characteristics. The character of the neighborhood was noted in the newspaper at the time as having been a consideration in the design of the church:

“The site, by reason of the beautiful trees, is peculiarly fitted to enshrine that English type of architecture, adopted by Rev. Fr. Coppinger, which is characterized by low walls and high pitched roof, a combination of rustic stone, cement [stucco] and half timber.”¹

Elements of historic landscaping features in the vicinity survive, such as the fieldstone wall at the northeast corner of Freeman and Pleasant Streets from the Sears Estate and the magnificent Beech tree between the church and the rectory.

The architects for the church, Maginnis & Walsh, were the leading firm in the country for the design of Catholic churches.² Charles D. Maginnis trained in the office of the Boston City Architect, Edmund Wheelwright. He served as president of the Boston Society of Architects from 1924 to 1926, and president of the American Institute of Architects from 1937-39. The A.I.A. awarded him its Gold Medal in 1948, the first Bostonian to receive this honor. Maginnis designed a house for himself in Brookline in 1920 at 219 Dean Road and in 1898 he formed an architectural partnership with Timothy F. Walsh. Walsh had trained in the office of Peabody & Stearns and lived on Francis Street in Brookline. The firm acquired a national reputation with designs ranging from St. Vibiana in Los Angeles (1906); St. Josephs in Dayton, Ohio (1908); St. Catherine of Genoa in Somerville, Massachusetts (1909); and Boston College (begun 1909.) Many of the firm’s designs were large structures either in historical styles such as Byzantine,

¹ *Brookline Chronicle*, February 25, 1911.

² Marvin E. Goody and Robert P. Wash, editors, “Charles D. Maginnis 1867-1955”, Boston Society of Architects The First Hundred Years 1867-1967. (Boston: Boston Society of Architects, 1967.)

Italian Renaissance, or Gothic Revival. Maginnis was critical of much of nineteenth century Catholic architecture that tried to imitate European cathedrals without having the funds sufficient to construct such ambitious projects, resulting in architecture that he described as “stage scenery.”

In the design of St. Aidan’s the firm was very conscious of the architectural character of the neighborhood. Charles D. Maginnis recorded his views in an article published shortly after the construction of St. Aidan’s. He wrote that, “It is an architectural axiom that the building shall be appropriate not merely to its purpose, but to its surroundings.” In his writings on church architecture Maginnis elaborated on the materials that would be appropriate for a small parish church. Local materials, such as fieldstone, combined with stucco and half-timbering were to be preferred. “There should be no aping of the forms of ambitious architecture If good art is to be had, the lessons architects must learn from modest means at their disposal is to make their churches modest too.”³

Large church designs by Maginnis & Walsh were either Gothic or Italian Byzantine in style. For the small village church, however, Maginnis’ views were clear:

“The best ideal of the village church is derived from our memory of the charming little rustic churches of France and England. And it would assuredly be difficult to imagine a rarer comity between architecture and untrained nature than that exemplified in the little ivy-clad, Gothic churches of some of the English counties.”

Maginnis first used Tudor Revival to design St. Aidan’s, followed in 1913 by Our Lady of the Presentation of the Virgin in Brighton in the same style.

³ Charles D. Maginnis, “Catholic Church Architecture”, *The Architectural Forum*, Volume 27, No. 2, August, 1917.

St. Aidan's was built in an L-shaped plan formed by a long nave and a large chapel rather than an east transept. The plan of St. Aidan's, which is non-traditional in terms of the location of the chapel, illustrates the flexible approach to ecclesiastical design that was characteristic of the work of Charles Maginnis. One gable end faces Freeman Street with an entrance in the center and a tower at one corner. Toward the rear of the main body of the church is a chapel extending from the east side toward the rectory. This chapel has its own entrance facing Freeman Street but it was also designed to provide additional seating capacity for the church. Although a separate space for worship, the chapel seating could be reversed to allow congregants to view the altar in the main body of the church. This was accomplished by the installation of a wall with glass panels and door between the chapel and the nave.

Externally St. Aidan's is constructed of carefully dressed stone with a prominent slate roof and Tudor Revival style stucco and half timbering for the gables ends, the entrance porticos, the tower's upper section, and the connector to the rectory. The Arts & Crafts influenced stained glass windows were designed and executed by Murphy & Millson of Boston. Although St Aidan's architectural features reflect a traditional use of English Tudor and Gothic motifs, the careful attention paid to detailing of the church is also in the spirit of the Arts & Crafts movement.

The church was constructed with a connector to the old house on the site, which became the rectory. Although repaired, the exterior of the house was not initially remodeled. The only view of its original appearance is a portion of the rear gable end and wing that the architects

included in a rendering for the church. This drawing shows a house with brackets and a gambrel roof gable end characteristic of the picturesque styles popular in the mid-nineteenth century.

In 1917 the parish constructed an automobile garage on the site. This structure, designed by James E. McLaughlin, is in the Tudor Revival style to match the church. Three years later, in 1920, the parish hired O'Connell & Shaw to remodel the rectory in a Tudor Revival style to be compatible with the church and garage. O'Connell & Shaw was another major architectural firm that specialized in the design of buildings for the Catholic Church. The remodeling of the rectory was so extensive that nothing remains visible of the exterior appearance of the original house as it was constructed in the 1850s. By 1920, the complex of church, rectory and garage had been completed. Based upon available records, little has changed since that time.

The period of construction of the church and the reconstructed rectory (1911-1920) coincided with the erection of the majority of houses in the neighborhood west of Pleasant Street and south of Adams Street. This period also coincides with the years when St. Aidan's most famous parishioners lived in the neighborhood and attended the church. Rose and Joseph Kennedy and their children were members of St. Aidan's Parish between 1914 and 1927. The two Kennedy houses in Brookline at 83 Beals Street and 51 Abbotsford Road were within walking distance of the church and Rose Kennedy reportedly prayed there daily. John F. Kennedy and Robert F. Kennedy were both baptized at St. Aidan's.⁴

The property previously included a three-family house at 215 Freeman Street on the west side of the church. This structure, built in 1912, was demolished in 1957.

Summary of Historical Significance of Buildings in the Proposed Historic District:

St. Aidan's Church

St. Aidan's is architecturally significant as the work of Maginnis & Walsh, perhaps the most important architectural firm in the country at that time that specialized in the design of Catholic churches. Many other important examples of the firm's work survive in Massachusetts and elsewhere in the country however, St. Aidan's is unusual as a rare intact example of a small parish church in the Tudor Revival style. The firm was frequently called upon to design every component of the church, including the furnishings. Original drawings for the church in the Maginnis & Walsh Collection at the Boston Public Library document that the firm was involved in every detail of St. Aidan's Church, both inside and outside.

In particular, the design for St. Aidan's reflects the influence of Charles D. Maginnis as an important figure in the Boston Society of Arts and Crafts. The choice of Tudor Revival style architecture reflects both Maginnis' approach to the design of buildings that are compatible with their neighborhood, as noted above, and his strong interest in the principles of design advocated by the Arts & Crafts movement. This is reflected in the design of interior furnishings.

The church is also historically significant as part of the development of North Brookline. The establishment of the parish in 1910 and the construction of the church in 1911-12 occurred in the middle of the most important period of development for this section of town, between 1890-1930. Many local families participated in the campaign to raise funds to build the church. In

⁴ Consistent with the reforms of Vatican II the baptismal font was moved from the baptistery in the front of the church to the narthex. The baptistery was later converted to a bathroom and the baptismal font has since been moved to St. Mary's Church in Brookline.

addition, the family of Joseph and Rose Kennedy regularly attended the church during their residence in the parish between 1914-1927. Several Kennedy children, including John and Robert, were baptized in the church and Rose prayed on a daily basis in the chapel. The church played an integral role in the life and spiritual development of the Kennedy family and for that reason is of major significance in understanding their story.

St. Aidan's Rectory

The Rectory was built in circa 1855 and extensively remodeled in 1920. Although it is one of the oldest buildings in the neighborhood, the extensive alterations made in 1920 by the firm of O'Connell & Shaw have left no exterior evidence of original fabric of the building. Timothy G. O'Connell and Robert J. Shaw were, along with Maginnis & Walsh, among the leading architects in the country for the design of buildings for the Catholic Church. O'Connell, in practice alone and with partners, worked on approximately 600 buildings in his career. While the firm of O'Connell & Shaw produced original designs for major projects, such as St. Peter and St. Paul Church in Lewiston, Maine in 1928-38, St. Aidan's Rectory was remodeled to be compatible with the existing church and is architecturally significant as an integral part of the church complex as it existed in 1920.

First St. Aidan's Garage

The first St. Aidan's Garage is typical of the more elaborate examples of early "automobile houses", as they were known. This building is characteristic of the type of design constructed for large residential estates rather than middle class homes on small lots. The design

of the garage was in the Tudor Revival style to be architecturally compatible with the Church and Rectory. The location of this automobile house on the northwest corner of the lot near Crowninshield Road, made it highly visible from a public way, and this no doubt played a role in the attention given to its design. The social standing of the parish priest of St. Aidan's in the neighborhood was also probably a factor in the construction of a large garage. Therefore, the building is important as part of the architectural significance of the property.

Second St. Aidan's Garage

Constructed in 1968, this utilitarian structure is of no architectural or historical significance.

St. Aidan's Church Site

The north half of the property has been in use as a parish parking lot and no record has come to light regarding original or later landscape features. An aerial photograph of Brookline made in April 1930 shows the area with grass and trees. A curved unpaved drive extended from the rear of the rectory to the front of the garage, exiting on Crowninshield Road. The area in the southeast corner of the property at the corner of Freeman and Pleasant Streets has not been significantly changed and its open park-like appearance was clearly an important factor in the design of the church and how it related to the rectory. The tall beech tree on the site may be one of the many planted by David Sears in this area of Brookline in the 1840s.

Local Historic Districts in Massachusetts

The establishment of local historic districts in Massachusetts is authorized under M.G.L. Chapter 40C. The Town of Brookline adopted the provisions of Chapter 40C on December 11, 1979. Two local historic districts were established in Brookline, Cottage Farm in 1980 and Pill Hill in 1983.

Chapter 40C, also known as the Historic Districts Act, was established to, "...promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the commonwealth and its cities and towns or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith." (Section 2) The act provides for the establishment of a local historic district that consists of "one or more parcels or lots of land, or one or more buildings or structures on one or more parcels or lots of land." (Section 3 para. 1) There are several single property historic districts in Massachusetts established under Chapter 40C. Single property local districts exist in West Springfield, Sharon, Shrewsbury and Somerville.

The jurisdiction of a local historic district commission provides that, "no building or structure within an historic district shall be constructed or altered in any way that affects exterior architectural features unless the commission shall first have issued a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship with respect to such construction or alteration." (Section 6, par. 1) The following general guidelines are provided for the local historic district commission:

“In passing upon matters before it the commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture, material and color of the features involved, and the relation of such features to similar features of buildings or structures in the surrounding area. In the case of new construction or additions to existing buildings or structures the commission shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity, and the commission may in appropriate cases impose dimensional and set-back requirements in addition to those required by applicable ordinance or by-law. The commission shall not consider interior arrangements or architectural features not subject to public view.”

“The commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or architectural characteristics of the surroundings and of the historic district.” (Section 7)

These guidelines allow historic district commissions to review any alterations or demolitions within an historic district that are visible from a public way. Interior alterations are not reviewed, nor is new construction prohibited if it is not incongruous to the district.

St. Aidan's Local Historic District

In listing the property in the National Register of Historic Places the nomination form states that the church and rectory are significant for both architectural and historical importance to the Town of Brookline. To the extent that a building's eligibility for listing in the National Register is due to architectural considerations, such eligibility may be derived from both its interior and exterior significance and integrity. If the interior of a building is part of its historical and architectural significance, alterations to the interior may have an impact on its eligibility for the National Register. Notwithstanding the removal of certain furnishings and some very minor

interior water damage in the church, the St. Aidan's Church property has remained virtually unaltered since it was listed in 1985.

The information gathered in this report substantiates the initial determination of significance made for National Register listing and strongly suggests that St. Aidan's eligibility for individual listing on the National Register would survive sympathetic adaptive reuse of its interior. Moreover, it should also be noted that the minimum standards for having a building individually listed in the National Register are normally higher than for a contributing building or property in a National Register Historic District or for inclusion of a building in a Local Historic District.

Both the interior and exterior of St. Aidan's Church are important as the work of Maginnis & Walsh, and the exterior of the church cannot be fully appreciated without an understanding of the interior, which informs its shape and character. The exterior on its own, however, is a significant architectural design and the church has stood for almost one hundred years as a major architectural landmark in North Brookline. As the only church building in Brookline north of Beacon Street, St. Aidan's provides a critical architectural focal point for the entire neighborhood, enhanced by the way it and the rectory are set back from the corner to enframe the open space containing the monumental beech tree. The historical significance includes the importance of the property as part of the development of North Brookline neighborhoods, and as a church attended by the Kennedy family. Even without public access to the interior, the exterior and the site are an important part of the history of the early years that the Kennedy family spent in Brookline. It is

also one of a constellation of four sites in the immediate area linked with the Kennedys — the others being the two Kennedy houses and the Devotion School.

As noted above, local historic districts established under Chapter 40C specifically exclude interior features from review by historic district commissions. Therefore, no direct protection for the interior features and finishes could be afforded through the establishment of a local historic district. However, a change of use to the interior of a church might also suggest changes to windows and doors, which are exterior features for the building. Exterior modifications resulting from interior changes would be subject to review by the Brookline Preservation Commission. All sides of the property are visible from public ways and thus, any changes to the exterior elevations would require review.

The architectural significance of the property also includes the way the buildings architecturally relate to each other and to the site in terms of scale, building materials, open space and orientation toward the street. Local historic district review would also include approval of any new construction on the site. The location, scale, materials and setback of new construction on the property could have a major impact on the architectural significance of the property. The Preservation Commission would be required to review such changes to insure that any new construction was “not incongruous to the historic aspects or architectural characteristics of the surroundings and of the historic district.” However, Commission review would not preclude the construction of additional buildings on the site.

The largely unaltered historic character of the neighborhood west of Pleasant Street may merit future consideration for National Register eligibility. Such National Register listing could

eventually provide a basis for the expansion of a St. Aidan’s local historic district. Any proposed enlargement of the boundaries of the proposed local historic district is beyond the scope of this report. This report has also not considered any diminution of the proposed local historic district as the entire site maintains a high degree of architectural and historical integrity.

Summary

St. Aidan’s Church is a property listed in the National and State Registers of Historic Places for its architectural and historical significance. As a National Register listed property the site merits consideration as a local historic district. The purpose of a local historic district is to provide for the “preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Commonwealth and its cities and towns or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.” The establishment of a St. Aidan’s Local Historic District would, therefore, provide both recognition and protection for a property that is an important part of the architectural and historical heritage of Brookline. For the reasons set forth in this study report, this site should be designated a local historic district.

David England, Chairman

Maurice Childs, Vice-Chair

Sheri Flagler

Gary Gross

Shantia Anderheggen

Wendy Ecker

Dennis DeWitt

SELECTMEN'S RECOMMENDATION

Article 16 would amend Article 5.6 of the Town's By-Laws, entitled Preservation Commission and Historic Districts By-Law, by establishing the St. Aidan's Local Historic District. The subject property (Assessor's Map Area 027, lots 01 and 02-03), which is owned by the Roman Catholic Archdiocese of Boston, A corporation Sole, is approximately 79,615 sq. ft. in area. The St. Aidan's Church property was listed on both the National and State Registers of Historic Places in 1985 as part of a Multiple Resource Nomination.

Background

St. Aidan's Local Historic District Study Report

On May 24, 2001, Town Meeting voted to approve Article 22, which recommended that the Brookline Preservation Commission, acting under Article 5.6 of the Town's By-Laws and Chapter 40C of the General Laws of the Commonwealth of Massachusetts, conduct a study and public hearing regarding the potential designation of the St. Aidan's property as a local historic district.

The Historic Preservation Office of the Department of Planning and Community Development completed a preliminary study report in July, 2001 describing the historical, architectural, and cultural significance of the St. Aidan's Church property. The Preservation Commission authorized the study be forwarded to the Massachusetts Historical Commission (MHC) for review consistent with MGL Chapter 40C. On October 10, 2001, the MHC "voted to endorse the preliminary study report, recommending the establishment of the St. Aidan's Local Historic District."

The Preservation Commission held the required public hearing on January 9, 2002. At the Commission's public hearing, a significant number of citizens spoke both in favor of and opposition to the establishment of the local historic district. Representatives from the Archdiocese of Boston and St. Mary's Parish spoke in opposition to the proposed local historic district.

On February 12, 2002, the Preservation Commission formally voted to recommend that Town Meeting consider a warrant article establishing a local St. Aidan's Historic District. The final Study Report on the Establishment of St. Aidan's Local Historic District should be consulted regarding the basis for the Preservation Commission's recommendation.

Article 5.6 of the Town's By-Laws stipulates that the establishment of a local historic district requires a two-thirds vote of Town Meeting. If approved by Town Meeting, the St. Aidan's Historic District would be the third such district, including the Cottage Farm (1979) and Pill Hill (1983) historic districts, established in Brookline and the only district that encompasses

essentially a single property controlled by a single owner that has expressed opposition to the proposed local historic district designation.

St. Aidan's Adaptive Reuse Feasibility Study

At the May, 2001 Town Meeting, the Board of Selectmen, as part of the Selectmen's Supplementary Report and Recommendation on Article 22, expressed their commitment to "historic preservation and affordable housing on the site of the St. Aidan's Church" by authorizing the Department of Planning and Community Development to commission a study to: explore the structure and site to identify the opportunity for adaptive reuse of the church building and grounds; understand the financial implications of adaptive reuse; and establish the basic framework to guide design review on the site.

Based on that recommendation, the Department established a phased work program and, in conjunction with the Chief Procurement Officer, submitted a Request for Quotations and Qualifications (RFQ-RFP) to secure architectural services necessary to complete the study. As a result of the submission of the RFQ-RFP, the team led by the architectural firm of CYMA 2, Inc. was selected.

A St. Aidan's Study Committee was also convened by the Board of Selectmen to guide the study process. The Committee, which was chaired by Selectmen Donna Kalikow and Robert Allen, was composed of representatives from the Preservation Commission, Planning Board, Housing Advisory Board, Economic Development Advisory Board, School Committee, and the surrounding neighborhood. The Committee conducted a total of six meetings between August, 2001 and January, 2002. All Committee meetings were noticed and open to the public. Public interaction between the Committee, CYMA 2, Inc., Town staff, and the public was extensive at each meeting.

With the assistance of CYMA 2, Inc. and staff from the Department of Planning and Community Development and Economic Development Office, the Committee completed the following tasks:

1. Conducted a visual inspection of the Church and property and considered reports regarding various aspects of the buildings, site, and landscaping.
2. Identified important features of the site, the defining features of the surrounding neighborhood, and the interface between the two.
3. Reviewed the analysis regarding the opportunity to adapt the church building for residential reuse.
4. Participated in a work session that examined, through a series of massing studies that modified a physical model of the site and surrounding neighborhood, the impact of various alternative conceptual preservation and development programs.

5. Reviewed the financial trade-offs of reuse of the Church as housing, assuming a range of different preservation, adaptive reuse, and development goals.
6. Completed a Goals, Principles and Guidelines report that summarized the work of the Committee and advanced a basic framework to guide the future reuse of the Church property.

The Goals, Principles and Guidelines report was presented and discussed with the Board of Selectmen on February 12, 2002. At that meeting, the Chairman of the Board of Selectmen recommended that copies of the Goals, Principles and Guidelines report be conveyed to representatives of St. Mary's Parish and the Archdiocese of Boston. Copies of a supporting Technical Report compiling work completed by the consultant team and staff was also prepared and submitted to the Committee, Parish, and Archdiocese.

In April, 2002, the Board of Selectmen, as part of a regularly scheduled meeting, met with representatives of the Parish and Archdiocese who indicated, based on the conclusions of the St. Aidan's Study Committee report, a commitment to actively pursue with the Town a revised plan and development program that would preserve the St. Aidan's church and adjoining open space in context with a mixed income housing development. A preliminary site plan was also presented to the Town's Housing Opportunities Task Force by the Archdiocese's Planning Office of Urban Affairs, Inc. (POUA) reinforcing the commitment to embrace the Study's goals, principles, and guidelines.

Based on that commitment, the Board of Selectmen, St. Mary's Parish, and the Archdiocese have taken the following significant steps:

1. After consultation with the Pastor of the St. Mary of the Assumption Parish, the Roman Catholic Archbishop of Boston, a Corporation Sole, has designated the POUA as the developer for the St. Aidan's site.
2. The Board of Selectmen has convened a Project Review Team (PRT) with neighborhood, design, financial, and community development representation to work collaboratively with the POUA to complete a comprehensive proposal for the reuse of the site.
3. The Board of Selectmen, Roman Catholic Archdiocese of Boston, and POUA have agreed to enter into a Memorandum of Understanding (MOU) that will clearly articulate the commitments of all parties to: preserve the church exterior and landscaped forecourt in conjunction with income housing development; and proceed with a focused and participatory process that will bring continuity during both the PRT and permitting processes.

Conclusions

The report recommended by the Brookline Preservation Commission and endorsed by the Massachusetts Historical Commission (MHC) defines in great detail the historic, architectural, and cultural significance of the St. Aidan's church.

The Goals, Principles and Guidelines report prepared by the St. Aidan's Study Committee is significant in many respects. Particularly, a basic framework is established to guide future preservation and adaptive reuse of the St. Aidan's Church and site. But, most importantly, given the above commitments by St. Mary's Parish and the Archdiocese to work collaboratively with the Town to achieve the Study's conclusions, a significant opportunity is presented to the Brookline community.

The preservation of the St. Aidan's church and the design and development of mixed-income housing will be closely linked to the process that is now underway. This process establishes both an appropriate forum and a common basis under which to realize and balance the important goals defined by both of the above reports. Brookline now has an unprecedented opportunity to demonstrate that a well designed plan can be developed collaboratively and a supporting agreement between all interests reached that preserves the St. Aidan's Church and landscape, reinforces and enhances the surrounding neighborhood character, and provides appropriately scaled mixed-income housing development that is financially viable for the property owner and fiscally sound for the Town.

Therefore, the Board of Selectmen unanimously recommends that Town Meeting consider the following action regarding Article 16.

VOTED: To refer Article 16 back to the Preservation Commission, with a request to insert the Article in the Warrant for consideration at a future Town Meeting if satisfactory progress on preserving St. Aidan's Church cannot be achieved by other means.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 16 was placed on the Warrant at the request of the Preservation Commission. If adopted, the article would create a Historic District under GL c. 40C consisting of St. Aidan's Church and the surrounding land owned by the Archdiocese of Boston. Creation of such a district requires a 2/3's vote of Town Meeting.

DISCUSSION

Chair of the Preservation Commission, David England, states that the Commission had studied the inclusion of the St. Aidan's Church property in a Historic District, pursuant to the resolution adopted by the Town Meeting under Article 22 of the last Annual Town Meeting. The Commission studied the issues, reviewed the report by the Planning staff and voted on February 12, 2002 to recommend creation of a Historic District for the property. The property, which consists of two parcels of land containing 79,615 square feet or approximately 1.8 acres, the main church building, rectory and several accessory buildings, is bounded on three sides by Crowninshield, Pleasant and Freeman Streets. The Report, produced by the Planning Department, contains a comprehensive description of the neighborhood, the property, its architectural and historic significance, and its association with the family of President John F. Kennedy. The Report concludes that the church is architecturally and historically significant and recommends that the site be placed in an Historic District.

The Report also summarizes the scope of protection afforded by the Historic District statute. Specifically, the inclusion of the site in an Historic District would only preserve the exterior features of the structure, not the interior, although much of the architectural significance of the church lies in the design and detailing of its interior and its relationship to the exterior. Mr. England also noted that the Town had not previously designated a single property as an historic district (although a few exist in other cities or towns) and that the Commission had not previously recommended such a designation without the support of at least a substantial majority of owners in the proposed district. In this case the Church had and continues to oppose inclusion of the site in a Historic District.

At the same time that this process was unfolding, the Church, including representatives of both the parish and of the Archdiocese, the Board of Selectmen, the neighbors in the area, and a consultant hired by the Board of Selectmen, have been in the process of discussing ways to preserve the church and part of the open space while also developing the site for affordable housing.

To further this dialogue between the Town and the Church, the Archdiocese has recently designated the Planning Office for Urban Affairs, which is a separate organization within the Archdiocese, as developer for affordable housing for the site. That office is authorized to enter into a Memorandum of Understanding (MOU) concerning such development. As a result, the parish and the Archdiocese will be represented by a knowledgeable and experienced development entity that can respond to proposals from the Town and input from the public. The Board of Selectmen has also designated a Project Review Team to review any proposals from the Church and to receive public input at one or more public meeting or forums and make recommendations to the Board and the Town.

St. Aidan's church is listed on the National Historic Register, due in part to its role in the life of President Kennedy. However, both the National Park Service and the Kennedy family have been contacted, and neither has shown interest in turning this site into a National Park or museum.

Numerous questions and concerns have been raised about size, particularly the height, density and number of units on the site. In this connection it has to be emphasized that the Town does not currently have a detailed proposal for use of the property before it. Only after such a proposal is made public can many of the questions and concerns raised at the hearing be addressed. Further, even if the property were placed into a Historic District under Chapter 40B of the state law, affordable housing could still be built on the site. A Historic District would protect only the exterior of the church building.

The Chair of the School Committee, Marcia Heist, did address the question of the impact of additional housing on the site on the population of the Devotion School. The School Department could deal with the increase in school population that affordable housing might render. There currently is room for additional students in the Devotion School, although at some times in the past the school had been at or above capacity. She also pointed out that the School Committee is committed to providing quality education to all children in town regardless of economic circumstances or location and that the School Committee regularly deals with problems of shifting demographics and demand on particular schools and will do so here.

In light of the progress that has been made in addressing the issues raised by this warrant article and the other development issues concerning the site that are outside the scope of this warrant article, the Preservation Commission, the Church, and the neighborhood group that had worked to save St. Aidan's all recommended that the process of negotiation should continue and that the site should not be made a Historic District at this time. The Preservation Commission will continue to monitor the process.

The Advisory Committee agreed with this approach for several reasons. First, we believe that the Town has an opportunity to achieve several of the public goals that have been identified and which most of the participants in the debate about this site have said they support. Doing so, however, requires time to develop and test alternatives and to work out compromises. That process is underway and should be allowed to run its course. Second, the Advisory Committee recognizes that there are various ways of achieving the goal of preservation. Designation as a Historic District is at best a blunt instrument and it can be repealed at any time. There are alternatives that allow for both more flexibility in dealing with the characteristics of a specific building and insure more permanency in the protection. Finally, we believe that more public discussion about use of this site is desirable and consistent with the way in which the Town tries to approach divisive issues.

RECOMMENDATION

The neighborhood group put forth a motion to refer Article 16 back to the Preservation Commission, with a request to insert the article in the Warrant for consideration at a future Town Meeting if satisfactory progress on preserving St. Aidan's Church cannot be achieved. The Preservation Commission was willing to accept this compromise. The Advisory Committee, by a simple majority, voted to recommend FAVORABLE ACTION on the vote offered by the Selectmen.

ARTICLE 17

SEVENTEENTH ARTICLE

To see if the Town will amend SECTION 5.3.12, entitled Notice, by deleting, in the first sentence, the words “the immediate abutters to the subject property” and by replacing those words with the following:

“the immediate abutters to the subject property, the owners of land directly opposite on any public or private street, and abutters to the abutters within three hundred feet of the property line of the subject property as they appear on the most recent applicable tax list;”

or act on anything relative thereto.

To increase the number of people who are notified about demolition of a house or structure.

SELECTMEN’S RECOMMENDATION

A petitioned article, Article 17 proposes that Section 5.3.12 of the Town’s Demolition By-Law be amended to include the following:

Delete the words “the immediate abutters to the subject property” and

Replace with “the immediate abutters to the subject property, the owners of land directly opposite on any public or private street, and abutters within three hundred feet of the property line of the subject property as they appear on the most recent applicable tax list”

The Demolition By-Law, which is administered by the Building Commissioner and the Preservation Commission, has been adopted to: preserve and protect significant buildings of historic, cultural, and architectural importance; and encourage property owners to pursue restoration and rehabilitation. Following a determination by the Preservation Commission, after a public hearing, that a building is significant, the Building Commissioner, upon recommendation of the Commission, may withhold a demolition permit for up to one year.

The proposed amendment will make the notice provision of the Demolition By-Law consistent with the notice provisions required by Chapter 40A, “The Zoning Act”, of Massachusetts General Laws. The amendment will insure broad notification of any public hearing conducted by the Preservation Commission consistent with the provisions of the Demolition By-Law.

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

VOTED: That the Town amend SECTION 5.3.12, entitled Notice, by deleting, in the first sentence, the words “the immediate abutters to the subject property” and by replacing those words with the following:

“the immediate abutters to the subject property, the owners of land directly opposite on any public or private street, and abutters to the abutters within three hundred feet of the property line of the subject property as they appear on the most recent applicable tax list;”

ADVISORY COMMITTEE’S RECOMMENDATION

OVERVIEW

This Warrant Article would amend the Town’s Demolition By-Law, Section 5.3.12 to require that more neighbors than just the immediate abutters would receive notice when a building is going to be demolished.

DISCUSSION

Presently the Demolition By-Law states that “the immediate abutters of the subject property” will receive notification of an upcoming demolition. This change in the by-law would require that in addition to the immediate abutters, “the owners of land directly opposite on any public or private street, and abutters within three hundred feet of the property line of the subject property as they appear on the most recent tax list” would also receive notification of a demolition. The petitioner of the Warrant Article was upset that he did not know that a demolition was going to take place in his neighborhood.

The Planning and Community Development Department stated that it could send out the required notices under the revised by-law without a great deal of additional effort or expense. The Advisory Committee felt that it made sense for the larger group of abutters and neighbors to know of an upcoming demolition.

RECOMMENDATION

The Advisory Committee by a nearly unanimous vote recommends FAVORABLE ACTION on the vote offered by the Selectmen.

ARTICLE 18

EIGHTEENTH ARTICLE

To see if the Town will change the name of the land, bounded by Marion, Park and Vernon Streets, now known as Saint Mark's Park, to Judge Henry P. Crowley Park, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

This petitioned article calls for re-naming the park currently known as Saint Mark's Park to Judge Henry P. Crowley Park. The Board of Selectmen concur with the petitioner that Judge Crowley was an outstanding citizen and that his death resulted in the loss of a great man. On September 7, 2001, the Board signed a resolution on the death of Judge Crowley in the following manner:

RESOLUTION
ON THE DEATH OF
HENRY P. CROWLEY
FORMER JUSTICE, BROOKLINE DISTRICT COURT

It is with deepest regret that we, the members of the Board of Selectmen, record the death of

Judge Henry P. Crowley
On Friday
September 7, 2001

WHEREAS, Judge Crowley served the citizens of Brookline and Norfolk County for 32 years;
and

WHEREAS, his passing takes from us a jurist held in the highest regard for his judgment, commitment, and ideals; and

WHEREAS, Judge Crowley was a devoted husband to Joan Crowley, herself long active on the Commission for the Disabled and in other Town affairs; and

WHEREAS, both Henry and Joan Crowley are loving and beloved parents, grandparents, and most recently great grandparents; and

WHEREAS, former Selectman Christopher Crowley is a son justifiably proud of his father's accomplishments for community and country; and

WHEREAS, an outstanding citizen of sterling character, sincerity of purpose, and considerable achievement has been taken from our midst, and in our desire to record our appreciation for his substantial contributions to the community.

BE IT THEREFORE RESOLVED, that we, the undersigned members of the Board of Selectmen, on behalf of the citizens of Brookline, extend our deepest sympathy to the family of the late Henry P. Crowley and let them know that he will be greatly missed by all.

Saint Mark's Park is an ideal area to rename for Judge Crowley, as it is a quiet area that the Judge used to spend some time at. In addition, the church for which the park is currently named has been gone for approximately 20 years. Condominiums now stand on the land previously occupied by the church.

In recognition of a life-long resident of Brookline who served the citizens of the Town and Norfolk County for 32 years, the Selectmen recommend FAVORABLE ACTION, by a vote of 5-0, on the following vote:

VOTED: That the Town change the name of the land, bounded by Marion, Park and Vernon Streets, now known as Saint Mark's Park, to Judge Henry P. Crowley Park.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This Warrant Article proposes the renaming of St. Mark's Park to Judge Henry P. Crowley Park. The current St. Mark's Park is a small passive park in the shape of a triangle, 0.40 acres in size between Park, Marion, and Vernon Streets. This property was given to the Town in 1897 by the heirs of Marshall Stearns for use as a park with the stipulation that no buildings could be erected. It was renovated in 1995. The current name refers to an adjacent site that contained the St. Mark's Church, which was converted to condominiums some time ago.

Pursuant to Town By-Laws, Article 6.8 (passed by Town Meeting in May 2000), Town Meeting must assent to naming all town "buildings, parks, squares and other facilities." Town Meeting has traditionally named corners, squares and bridges for soldiers killed in the line of duty and other community residents. This will be the second naming warrant article (other than soldiers) since Article 6.8 was adopted; the other naming article was for the James F. Walsh Meeting Room.

DISCUSSION

Judge Crowley passed away in September, 2001. With respect to the park naming, the petitioners noted Judge Crowley's significant life accomplishments on behalf of the community:

1. Was a life long resident of Brookline and a graduate of the Brookline Public Schools.
2. Was a disabled World War Veteran.
3. Was a Town Meeting Member for 10+ years.
4. Was appointed as the Brookline District Court Judge in 1959. At the time of his appointment, he was the youngest judge ever appointed. He served in that capacity for 32 years.
5. Was Chair, Moderator's Committee on Changes to Park & Recreation Services.
6. Presided at the Brookline Court Centennial Celebration.

After his passing, the Selectmen issued a resolution citing Judge Crowley's service to the citizens of Brookline and Norfolk County for 32 years. The resolution also states:

“Whereas, his passing takes from us a jurist held in the highest regard for his judgment, commitment and ideals, and...

Whereas, an outstanding citizen of sterling character, sincerity of purpose and considerable achievement has been taken from our midst, and in our desire to record our appreciation for his substantial contributions to the community...”

The Advisory Committee noted in its proceedings that the Park and Recreation Commission voted a number of years ago a general policy not to rename parks. The Commission has reaffirmed that policy with respect to this warrant article.

According to Erin Chute, Director of Parks and Open Space, the cost of renaming the park is negligible.

RECOMMENDATION

The Advisory Committee by a simple majority recommends FAVORABLE ACTION on this article based upon Judge Crowley's significant life accomplishments on behalf of the community. The Advisory Committee felt that it is procedurally appropriate for the Committee or Board responsible for the town asset to be renamed (in this case the Park and Recreation Commission) to be consulted and publicly express its opinion on such renamings. The Committee also felt that an ironclad policy not to rename parks is unreasonable and that renamings should be considered on a case by case basis.

18-4

What this comes down to is a value judgment on whether the individual's contributions to the community warrant this honor. The Advisory Committee felt that Judge Crowley's accomplishments warrants the honor.

The Advisory Committee, by a simple majority, recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 19NINETEENTH ARTICLE

To see if the Town will authorize and approve the filing of a petition with the General Court in substantially the following form:

AN ACT CHANGING THE PERCENTAGE OF TOTAL TAX LEVY IMPOSED ON ANY CLASS OF REAL AND PERSONAL PROPERTY AND PROVIDING A TAX EXEMPTION FOR CERTAIN SMALL BUSINESSES IN THE TOWN OF BROOKLINE.

BE IT ENACTED, by the Senate and House of Representatives in the General Court Assembled and by the authority of the same, as follows:

Section 1. Notwithstanding any special or general law to the contrary, including, without limiting the foregoing, section 1A in Chapter 58 of the General Laws, in the town of Brookline, the limitation of one hundred and seventy-five percent of the full and fair cash valuation of the taxable property in said class set forth in part (a) in the fourth sentence in the second paragraph in Section 1A in Chapter 58 of the General Laws, shall be changed to two hundred percent, so that in the town of Brookline the limitation shall be two hundred percent and not one hundred seventy-five percent.

Section 2. Notwithstanding any special or general law to the contrary, including, without limiting the foregoing, Section 5I in Chapter 59 of the General Laws, in the town of Brookline, the exemption and conditions set forth in the first paragraph of Section 5I of Chapter 59 shall be modified as follows: In the town of Brookline with respect to each parcel of real property entirely or in part classified as class three, commercial, or class four, industrial, when the town of Brookline is certified by the Commissioner to be assessing all property at its full and fair cash valuation, and at the option of the Board of Selectmen, there shall be an exemption equal to not more than twenty percent of the commercial or industrial value of each parcel; provided, however, that such exemption shall only apply to property that is occupied by businesses that, at that location and all other combined, have an average annual employment of no more than ten people during the previous calendar year as certified by the Commissioner of the Department of Employment and Training. There shall be no limitation with regard to the assessed valuation of parcels in order to qualify for this exemption. In properties where all businesses do not qualify, the exemption shall be prorated according to the percentage of commercial or industrial square footage of the building that does qualify. The exemption granted under this provision shall be prorated with the owner of the real estate receiving fifty percent of the benefit and the remaining fifty percent being prorated to the owners of the business that qualify by the owners of the real

estate unless lease agreements provide otherwise. This exemption shall be in addition to any exemption allowable under section five. The value of exemptions granted under this Section shall be borne by the combined value of class three, commercial property and class four, industrial property.

Section 3. This act shall take effect upon its passage.;

or act on anything relative thereto.

For each of the past two years, taxes on single family homes, twos, threes, and condominiums have increased in the range of 5 to 8 percent, while over this period, commercial taxes have actually declined by half a percent. This is a change in the long-standing town policy to have residential and commercial taxes increase annually at about the same rate, and is caused by a tax classification cap in state law which is unrealistic in today's inflated residential housing market. Nobody wants to see town residents forced from their homes by unreasonably large tax hikes resulting from paper gains in the value of their property.

This home rule petition asks that the tax classification cap be raised from 175 percent to 200 percent in Brookline so that the selectmen once more have the flexibility to adjust residential and commercial tax rates in order to maintain residential-commercial tax parity and avoid large annual tax hikes for either homeowners or businesses.

The home rule petition also seeks to give tax relief to small businesses and to provide tax incentives to commercial property owners who rent to small businesses by modifying and eliminating flaws in the existing small business tax exemption (Chapter 59 Section 5I of the General Laws) so that it can be implemented by the selectmen in Brookline. Specifically, the petition (1) doubles the maximum exemption from 10 to 20 percent and mandates that the resulting tax benefits be shared equally by commercial landlords and their small business tenants, (2) removes the requirement that all businesses on a parcel must be small businesses for the parcel to qualify -- instead the tax benefit is prorated according to the portion of the parcel occupied by small businesses, and (3) allows any commercial parcel with small business tenants to qualify regardless of the parcel's assessed value, eliminating the \$1 million maximum allowable valuation in the existing law.

In summary, this home rule legislation would empower the selectmen to shield homeowners from excessive tax increases and to grant tax relief to small businesses and their commercial landlords.

SELECTMEN'S RECOMMENDATION

Article 19 is a petitioned article requesting Home Rule legislation to allow the Town to increase the maximum allowable shift of the tax burden from the residential classification to the commercial, industrial, personal property (CIP) classification from the current ceiling of 175% of assessed value to 200% of assessed value. It also makes changes to the existing laws regarding the Small Business Exemption. The basic effect of the article would be to allow the Town to further shift the tax burden to the CIP.

The Selectmen oppose this article on two grounds: (1) it would set Brookline apart from all other cities and towns in Massachusetts with the greatest shift of taxes to businesses; and (2) it threatens the small business base which we have been working hard to preserve.

HISTORY OF THE PROPERTY TAX

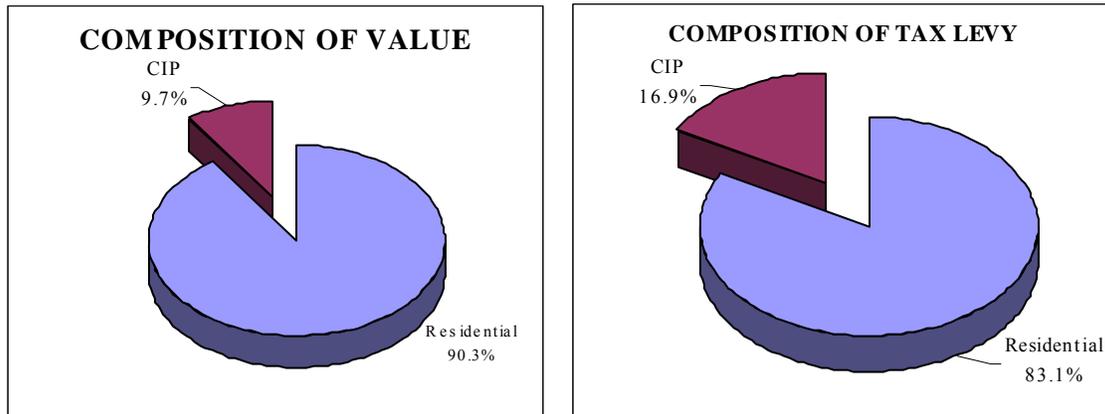
Because the issue of fairness in tax assessment is fundamental within our state constitution, state government regulates the way cities and towns can impose property taxes. On the one hand, state law mandates that all properties be assessed at "full and fair cash value", regardless of the type of use. On the other hand, largely as a result of a struggle that emerged between big businesses (i.e., utilities, insurance companies, and banks) and local governments, the Classification Act of 1979 allowed communities to establish different tax rates for commercial, industrial, and personal than for residential property, within certain limits.

The Classification Act established two limits on the ability of cities and towns to shift the property tax burden. First, the CIP levy share may only be increased as much as 75% over what it would otherwise be with a single tax rate. Second, the residential tax share may be no less than 50% of the single tax rate levy share, nor can it be less than the levy share in any year since the community was first classified. This is how we get to the current maximum allowable shift of 175%. This home rule petition would allow Brookline alone to raise this maximum shift to 200%.

CURRENT SHIFT IN BROOKLINE

If everyone paid property taxes at the same rate, the business sector in Brookline would pay 9.7%, or \$10.1 million, consistent with their share of value. Instead, the CIP sector paid \$17.65 million—a shift of \$7.55 million last year. This is because in FY02 we imposed the maximum allowable shift of 174.74%, meaning that the CIP sector pays an additional 74.74% in property tax than it otherwise would under a single tax rate.

Another way to look at this is valuation share versus the tax levy share, shown in the pie charts on the following page:



In FY02, residential properties comprise 90.3% of valuation, yet pay 83.1% of the tax levy. Conversely, the CIP sector comprises 9.7% of the value, but pays 16.9% in actual tax levy.

FINANCIAL IMPACT OF ARTICLE 19

Using FY02 data from the Assessors, if the Town were allowed the maximum shift included in Article 19, the CIP shift would be 199.4453%. (The exact ceiling of 200% could not be attained in the early years due to the requirements set forth in the Classification Act that the residential levy share cannot be reduced below 50% of its single tax rate share and the residential tax levy share cannot be less than the levy share in any year since the community was first certified.) The effect of this additional shift is shown in the table below:

Table 1

	Median Values	Tax Rates		Taxes			Change			
		2002	2002 Actual	2002 Proposed	2001	2002 Actual	2002 Proposed	FY 2001 to FY 2002 Actual	FY 2001 to FY 2002 Proposed	Cost of Article 19
Residential Exemption	105,210	\$1,357.21	\$1,318.28							
Single Family	667,700	\$12.90	\$12.53	\$6,809	\$7,256	\$7,048	\$447	\$239	(\$208)	
Two Family	592,800	\$12.90	\$12.53	\$6,091	\$6,290	\$6,110	\$199	\$18	(\$180)	
Three Family	624,800	\$12.90	\$12.53	\$6,478	\$6,703	\$6,510	\$225	\$32	(\$192)	
Condominiums	257,000	\$12.90	\$12.53	\$1,820	\$1,958	\$1,902	\$138	\$82	(\$56)	
Apartments	693,000	\$12.90	\$12.53	\$8,884	\$8,940	\$8,683	\$56	(\$200)	(\$256)	
Commercial Property	693,000	\$21.07	\$24.05	\$14,599	\$14,602	\$16,667	\$2	\$2,067	\$2,065	

The far right column of the chart contains the key figures: for a savings of between \$56-\$256 for residential properties, commercial properties will pay an additional \$2,065. In percentage terms, commercial properties would pay an additional 14% so that residential properties would save 3%. When added to the current burden shifted onto the CIP sector, the median commercial property would be paying \$8,309 (99.4%) more than they would if there was a single tax rate.

Two alternative scenarios have been discussed: 1.) increasing the CIP tax equal to the total tax levy and 2.) increasing the CIP tax equal to the Single Family tax increase. Under either of these two scenarios, the CIP shift is well below the 199.4453% maximum that would be attainable under this article. However, as shown below, the results are a small savings for the residential class in exchange for a large increase in the CIP: under Scenario 2, there is a savings of 0.9% for the residential class at the expense of an increase in the commercial properties of 4.3%; under Scenario 3, there is a 1.1% savings for the residential class at the expense of a 9.3% increase for the commercial properties

Scenario 2 **CIP Tax Increase Equal to Tax Levy Increase** **CIP Shift = 182.2496%**

	Median Values	Tax Rates		Taxes		Change		Cost of Article 19
	2002	2002 Actual	2002 Proposed	2002 Actual	2002 Proposed	FY 2001 to FY 2002 Actual	FY 2001 to FY 2002 Proposed	
	Residential Exemption	105,210	\$1,357.21	\$1,345.64				
Single Family	667,700	\$12.90	\$12.79	\$7,256	\$7,194	\$447	\$385	(\$62)
Two Family	592,800	\$12.90	\$12.79	\$6,290	\$6,236	\$199	\$145	(\$54)
Three Family	624,800	\$12.90	\$12.79	\$6,703	\$6,646	\$225	\$167	(\$57)
Condominiums	257,000	\$12.90	\$12.79	\$1,958	\$1,941	\$138	\$122	(\$17)
Apartments	693,000	\$12.90	\$12.79	\$8,940	\$8,863	\$56	(\$20)	(\$76)
Commercial Property	693,000	\$21.07	\$21.98	\$14,602	\$15,232	\$2	\$633	\$631

Scenario 3 **CIP Tax Increase Equal to Single Family Tax Increase** **CIP Shift = 184.1050%**

	Median Values	Tax Rates		Taxes		Change		Cost of Article 19
	2002	2002 Actual	2002 Proposed	2002 Actual	2002 Proposed	FY 2001 to FY 2002 Actual	FY 2001 to FY 2002 Proposed	
	Residential Exemption	105,210	\$1,357.21	\$1,342.48				
Single Family	667,700	\$12.90	\$12.76	\$7,256	\$7,177	\$447	\$368	(\$79)
Two Family	592,800	\$12.90	\$12.76	\$6,290	\$6,222	\$199	\$130	(\$68)
Three Family	624,800	\$12.90	\$12.76	\$6,703	\$6,630	\$225	\$152	(\$73)
Condominiums	257,000	\$12.90	\$12.76	\$1,958	\$1,937	\$138	\$117	(\$21)
Apartments	693,000	\$12.90	\$12.76	\$8,940	\$8,843	\$56	(\$41)	(\$97)
Commercial Property	693,000	\$21.07	\$23.04	\$14,602	\$15,967	\$2	\$1,368	\$1,365

The petitioner has referenced the tax impact as affecting affordable housing. A brief look at the impact on condominiums – the most affordable entry-level housing in Brookline – contradicts this claim. A typical condo owner would save between \$17-\$56 per year according to these calculations. Savings from \$1.40-\$4.70 per month are not likely to have a discernable impact on the Town's affordable housing needs. In contrast, Brookline businesses have clearly stated their belief that a \$760,000 to \$2.5 million increase in their tax burden would be quite damaging.

It is also important to note who pays the taxes. In the residential sector, property owners pay the taxes directly—meaning the beneficiary of the increased value of the property pays the tax. As much as we all wince at paying our property tax bills, we all know that those high assessed values will benefit us or our children upon resale. In the commercial sector, the business owners are rarely the property owners, and leases provide that property tax increases are directly and fully passed through to the business owners. These businesses do not benefit from the property value increases, but must pay the higher taxes related to those increases.

The petitioner's write-up states that the reason for the article is to continue the Selectmen's "long-standing policy to have residential and commercial taxes increase annually at about the same rate." While this implies theoretical fairness, two long-term trends cannot be ignored:

1. the number of CIP parcels in Town has been decreasing while the number of residential parcels has been increasing;
2. the assessed value of residential properties has increased 107% since FY95 while the assessed value of all CIP properties has increased only 52%.

STATEWIDE COMPARISON

In FY02, 98 of the 341 municipalities for which data was available use tax classification to transfer some portion of the tax burden onto the CIP sector. Of the 98, only 14 are at the 175% limit, one of which is Brookline. In FY02, Brookline shifted \$7.56 million of actual taxes paid (i.e., tax levy) onto the CIP, translating into \$15,328 on a per parcel basis. This is the 13th highest figure in the state.

Another way to compare Brookline to statewide data is to take the difference between what the average CIP tax bill would be with a single tax rate on a per parcel basis (\$20,485 for Brookline) and what the actual per parcel tax bill was (\$35,816 for Brookline). The result for the Town is \$15,328, the 13th highest figure in the state. When looked at on a percentage basis, the Town's average per parcel CIP tax bill is 74.8% higher than it would be if there was a single tax rate - - a percentage that is higher than Boston (69%), Cambridge (69%), and Newton (72%).

Of the 341 municipalities with available data, a little more than one third of them (123) have a CIP value share of less than 10%. Of those 123, only eight utilize the CIP shift, and only four have a CIP shift of 150% or greater. One of the four is Brookline. This illustrates how Brookline already shifts a large tax burden onto a proportionately smaller percentage of the Town's tax base.

By definition, if successful with the Home Rule petition, Brookline would be the only community in the state with a shift greater than 175%. Under any of the three scenarios discussed above, **Brookline would have the greatest shift in the state.** Brookline merchants have stated that this will send a very negative message to businesses – existing and prospective companies – that

Brookline does not value its business community. (The issue of “message” is elaborated upon later in this Report.)

It is also important to note that this is a virtual certainty that the State Legislature would not approve Article 16. The State has historically been loathe to cede community-specific taxing authority to any city or town. The Classification Act was adopted by statewide referendum to alter taxing authority granted by the State Constitution. It is most unforeseeable that the Legislature would allow any municipality home rule authority to shift tax burden between classes. (In contrast, the State has granted a few municipalities the authority to alter the Residential Exemption within that single class. Also, the Residential Exemption was adopted by legislative act, not through a statewide referendum.)

CHARACTER OF AND IMPACT ON BROOKLINE’S COMMERCIAL AREAS

A viable, vibrant business community is essential to maintaining the character of Brookline. Approximately 75% of the Town’s businesses are small businesses; in the retail sector, approximately 60% are unique “mom and pop” shops (compared to a national average of 30%). (Since the majority of businesses are small, locally owned entities, it stands that the majority of the impact of this article would fall on the Town’s small business sector.) These small businesses typically operate with much smaller profit margins than national chains do, so a tax increase like the one proposed in Article 19 will differentially impact the small businesses. Small as it seems, town merchants have stated that it could put some local businesses over the edge. If this occurs even to a minimal extent the Town could lose further ground in the delicate balance between large and small retailers we have been struggling to maintain.

Some have argued that this increased tax burden is still relatively minor compared to other operating costs. While this may be true, taxes are the one cost item the Town can control. Furthermore, a large number of small business owners came to the EDAB and the Selectmen to tell us this impact could be significant to them. One said that even before this additional tax burden, a small retailer closed its doors as a direct result of last year’s tax increase. These are the very businesses that are the heart and soul of our community—and the very ones to whom we turn to support our little league teams, school auctions, music and art scholarship programs, and the like. We cannot afford to ignore them and be proven wrong later, when it is too late.

A pass-through of \$2,065 to a Sprint, CVS, or Starbucks may be no big deal; however, \$2,065 for a Children’s Book Shop, Aborn Hardware, Pear Tree, or any small mom and pop, it may make them think twice about renewing their lease. The increase may also make some people interested in opening a small business in Brookline look elsewhere - - such as Wellesley, where there is no tax shift onto the CIP sector.

Furthermore, the businesses most able to absorb a tax increase are logically the ones whose sales per square foot ratio are the highest. Unfortunately, these are not necessarily the types of

businesses citizens want in Brookline. For example, the highest growth in sales per square foot in town are for pharmacies, yet very few citizens clamor for more CVS' and Walgreens'. This increased tax shift would encourage more of these uses and less of the ones we hear are most desirable.

In addition to paying a disproportionate share of taxes, the Town's businesses regularly give generously to the community, the value of which is estimated by our merchants at no less than \$500,000 per year. Article 19 could jeopardize the ability of businesses to be such generous members of the community, leaving those groups looking for private donations unable to reach their funding goals.

Finally, the Town already has a very limited ability to impact the choices of new businesses coming into the Town. We have long maintained that a healthy mix between national, regional, and local retailers is the key to success. This warrant article makes it even harder for us to attract the type of businesses residents repeatedly tell us they want.

MESSAGE

"We want to tax you at a level that is the highest in the state" - - this is the message that businesses will hear. Such a message would make it appear as though the Town does not support its commercial areas. That flies directly in the face of this Board's support of the business community, in general, and small businesses, in particular. This article would send a strong message throughout the state that Brookline is not business-friendly and does not want to cultivate its commercial areas. This is clearly a step in the wrong direction.

Not only is it the wrong message to send, it is also the wrong time to send it. After years of predicting that the economy could not grow at such a feverous pace forever, it has slowed down. With it has come a number of layoffs and a number of store closings around the country. In this precarious time, a further shifting of tax burden onto the Town's businesses does not make any sense.

SMALL BUSINESS EXEMPTION

Section 2 of the petitioner's article focuses on Massachusetts General Laws, Chapter 59, Section 5I, the so-called Small Business Exemption (SBE). Under current state law, municipalities can, by adoption of this statute, offer small businesses an exemption equal to 10% of the value of the parcel, provided they meet the following criteria:

- the average annual employment of the business at that location, and all others combined, had an average annual employment of no more than 10 during the previous calendar year, as certified by the Director of Labor and WorkForce Development;
- the assessed value of the parcel is less than \$1,000,000.

The exemption works in a manner similar to that of the Residential Exemption: the resulting decreased class value causes a slightly higher tax rate (in the SBE's case, the commercial tax rate). The result of this is a shift in the levy burden to those in the commercial/industrial class not eligible for the exemption. In other words, businesses that do not qualify pay more in taxes so that the smaller businesses that do qualify receive a tax break.

Article 19 would change the SBE statute for Brookline in the following manner:

- increase the 10% exemption to 20%;
- eliminate the \$1,000,000 valuation threshold;
- prorate the exemption (according to square footage) for those properties where all businesses do not qualify; and
- mandate that the exemption be shared 50%/50% between the landlord and the tenant.

While on the surface these changes appear to be laudable and make the SBE more favorable for a community like Brookline, they actually make the SBE extraordinarily more complex, and, according to the Assessors, might require additional staff to administer. One can argue that it is because the current law is poorly written that only four communities (Avon, Bellingham, Braintree, and Somerset) have adopted the SBE. The Assessor's Office contacted those four communities and gleaned from them the reasons for their adoption of the SBE:

- Bellingham – they adopted the SBE to shift a larger burden onto the two power plants in their town. Only 30-50 businesses out of 600 will qualify.
- Somerset – the major reason they adopted the SBE was to shift a greater burden onto a power plant. About 20-30 properties out of 350 qualify.
- Braintree – the SBE was adopted to help small drugstores and a widow who owned a hardware store from being hurt by the large chain stores. Of their 600 commercial properties, less than 100 qualify.
- Avon – the primary reason for adopting the exemption was to protect mom and pop businesses being hurt by the large chain stores allowed to be built within the Town (Home Depot, Walmart, and Jordan's Furniture). Only 22 of 400 businesses qualify.

It is quite apparent from this research that the only communities who have adopted the SBE are those with "special" circumstances, such as having a power plant, or are those "protecting" a certain type of small business from larger chains. Brookline's commercial tax base is very different from those communities and we believe the SBE is not the proper tool for use in this town.

CONCLUSION

The bullets below summarize the numerous point made above:

- if Article 19 is passed, Brookline would have the greatest percentage shift to the CIP sector in the state.
 - on a per parcel basis, Brookline already has the 13th highest percent shift in the state, higher than Boston, Cambridge, and Newton.
 - the Town currently shifts an additional 74.74% of the tax levy onto the CIP sector and the median valued commercial property already pays an additional \$6,244/year than it would if the Town had a single tax rate.
- approximately 75% of the Town's commercial composition is small business; approximately 60% of the retail sector stores are unique mom and pop shops, a figure much greater than the national average of 30%.
 - nearly all commercial leases in Brookline provide for a direct and full pass-through on tax increases. Therefore, an increase in taxes like Article 19 would be paid by the business owners.
 - These small businesses have told us emphatically that they are unable to absorb this increase.
 - the financial impact of the article – a \$2,065 increase for the median valued commercial property – could make the difference for some small mom and pop shops.
 - a very negative message would be sent to our commercial areas if this article is passed, further reducing our ability to influence the composition of our business mix.
 - this Board has made commercial area support a top priority. Imposing a burden like Article 19 on the Town's businesses not only undermines our efforts, but it also goes against what residents desire: commercial area composition that is unique and charming.
- The current SBE is not the proper tool to be used in Brookline and the petitioner's proposed changes to the SBE only make the existing SBE more complex and less workable.

For these reasons, the Selectmen recommend NO ACTION, by a vote of 4-0, on this article.

The Board also voted NO ACTION, by a vote of 4-0, on the vote proposed by the Advisory Committee.

ROLL CALLNo Action

Kalikow

Hoy

Goldberg

Allen

ADVISORY COMMITTEE'S RECOMMENDATION**BACKGROUND**

This article seeks a rule petition that would give the Selectmen the authority to (i) change the amount of real property taxes imposed on commercial properties by changing the tax classification limit from 175% to 200%, and (ii) establish a prorated exemption from the foregoing on small businesses (those with 10 or fewer employees).

The classification limit was last changed in 1988 from 150% to 175%.

Proposition 2 ½ limits the Town's total increase in taxes each year to that percentage of the total for the levy from the previous year. But, Proposition 2 ½ does not limit the Town's ability to shift the taxes from one classification to another within the total, except to the extent that under state law the shift cannot be more than 175%. Brookline presently does tax commercial properties at a rate that is 175% of the rate charged homeowners. Although charged at a higher rate, the portion of the Town's total real property taxes paid by commercial properties has been declining, due in part to a declining number of commercial properties and to the rapid rise in residential parcel values. The petitioner feels that this is unfair to homeowners and his stated objective is to provide the Selectmen with the means to relieve the "inequity/unfairness" of sharing of the real property tax burden between residential and commercial taxpayers, but without imposing a large impact on small businesses.

Attached to this report are the following documents that were presented to and used by the Advisory Committee in its deliberations:

- Attachment 1 - Comparison of Taxes on...Shifts, Petitioner's document dated 4/08/02
- Attachment 2 - Amount Currently Shifted, Document prepared by Sean Cronin
- Attachment 3 - Commercial & Industrial Parcel History, Document prepared by Sean Cronin
- Attachment 4 - Article 19 (Property Tax Shift) – Statewide Data, Memorandum written by Sean Cronin, without referenced spreadsheets

The Advisory Committee accepted the information as presented, and undertook no effort to establish the authenticity and accuracy of the data.

Valuations of Brookline’s residential properties are determined on the comparable sales method, while commercial properties are valued on the income method (as established by court decision), each acceptable for determining “fair value”.

Under current economic conditions and valuation methodologies, the Brookline real property tax assessment is allocated roughly 90%/10% to residential/commercial properties. But the existing classification limit allows the residential portion to be reduced to approximately 82.5% and the commercial portion to be increased to 17.5%, and the proposed change, if enacted and implemented, would allow the allocation to be as wide as approximately 80%/20% (a maximum of 19.2917% of the total tax burden can be borne by commercial property).

The change in (ii) would then exempt “defined” small businesses from a portion of the commercial tax levy, causing larger businesses to bear a disproportionate amount of such.

DISCUSSION

The Advisory Committee considered the article in the following contexts, each of which is later discussed in no intended order of importance:

- Macroeconomics
- Methodology
- Politics
- Legislative process
- Affected constituencies
- Relative comparisons
- Exemption issues

DISCUSSION - Macroeconomics

The petitioner’s analysis (Attachment 1) indicates that for the last three years the absolute amount of real property taxes imposed on residential properties has grown, and the amount on commercial properties has decreased:

<u>Fiscal Year</u>	<u>Share of Property Tax Levy</u>	
	<u>Residential</u>	<u>Commercial</u>
2000	80.7452%	19.2548%
2001	81.1274	18.8726
2002	83.1120	16.8880

Assuming a property tax levy of \$100 million, the 2.4% change between 2000 and 2002 represented a change of approximately \$2.4 million in tax burden. In FY 2002 the town shifted approximately \$7.5 million to the commercial side.

As shown by the attached “Amount Currently Shifted” (Attachment 2), the 2002 mil rate for residential properties is \$12.90, while the commercial rate is \$21.07. The single-rate (i.e., assumes no implementation to the tax classification limit), would be \$14.02 and \$12.06, respectively, the difference attributable to the residential exemption. The analysis demonstrates that, notwithstanding the declining share of the commercial levy, the median such property provided a benefit to residential properties in 2002 of over \$6,200 from the use of the limit.

The Petitioner’s analysis shows of that on a per median parcel basis, residential taxpayers have experienced far greater percentage increases in real property taxes than commercial taxpayers:

<u>Median Property</u>	<u>Property Tax</u> <u>FY 2002</u>	<u>Change</u>	
		<u>One Year</u>	<u>Two Year</u>
Residential – condominiums through 3-family	\$1,958 to \$7,256	\$138 to \$447 3.27% to 7.58%	\$249 to \$734 9.33% to 14.57%
Commercial	\$14,602	0.02%	-0.75%
Small business	\$3,651	0.02%	-0.75%

The Advisory Committee believes the object of its analysis should be an understanding of the reasons for the disparity, before concluding that there is an unfair distribution of the town’s tax levy.

The Advisory committee saw value in obtaining objective information demonstrating the fundamental, qualitative causes of these dynamics. Anecdotally, Chief Assessor George Moody indicated that in recent years the trend in Brookline has shown (i) greater growth in assessed values by the sales, rather than the income method, (ii) the growth in residential properties and (iii) commercial properties being converted to residential property. As shown in “Commercial & Industrial Parcel History” (Attachment 3), the number of commercial parcels in town declined from a high of 506 in 1998 to 485 in 2002, which is below the 491 parcels in 1993.

The Economic Development Office was unable to provide information, such as vacancy trends, that would be of value in understanding the qualitative issues. The office did provide informal information of vacancies in Coolidge Corner for February 2002. This information was not beneficial to the Advisory Committee’s analysis.

The petitioner argued that if the article was enacted, and if the Selectmen implemented it, businesses would at least have the potential to pass on to consumers the increased tax burden, whereas residential taxpayers had no alternative.

Business representatives disagreed with the petitioner, indicating margins would suffer, and Brookline’s business health would suffer further.

Additional information from these groups is discussed under “Affected Constituencies”.

DISCUSSION - Methodology

The alternate methods (sales and income) discussed for valuing properties should not result in significant variations from “fair value”. However, there was some discussion at the public hearing on the Article that at times selling prices of commercial properties were well in excess of their value determined by the income method. While this is anecdotal, it suggests that if true and significant, a component of the disparity in levy may be explained.

DISCUSSION - Politics

If enacted and implemented, Brookline would be the only community in Massachusetts with a tax classification limit that could be as high as 200%.

The petitioner stated that if the current trend of the town’s inequitable tax increases between residential and commercial properties continues, it could put future requests for overrides in jeopardy. The Petitioner also stated that it would be his intent to continue to raise this article until it was seriously addressed by the town.

Business representatives stated that this warrant article is one more reason why Brookline has a reputation for not being hospitable to businesses.

DISCUSSION - Legislative Process

There appeared to be consensus among those who participated in the subcommittee hearing that even if the article was passed at Town Meeting, as the only municipality in the state that would be requesting home rule on this matter, the state legislature would probably not support it.

While agreeing, the petitioner felt Town Meeting’s passage of the article would be a favorable sign to residential taxpayers, and would be the beginning of a statewide push to raise the classification limit, as happened in 1988.

But this raises the issue of whether Brookline residents feel there is a tax inequity, notwithstanding the existence of a disparity.

DISCUSSION - Affected Constituencies

The Advisory Committee heard from three constituencies:

- Resident only taxpayers
- Commercial only taxpayers
- Resident and commercial taxpayers

It was clear that there was no consensus between the constituencies.

The petitioner, as a voice of resident only taxpayers, felt there was a clear inequity.

Other residents, some of whom represented or supported business interests, did not dispute the disparity of burden, but did not see it as an indicator of inequity. Rather, it was an indicator of one of the many challenges facing commercial success in the town. And in an overall context, the tax disparity, along with higher retail prices and parking access, could be viewed as among the costs to be borne as a Brookline resident to have an available, vibrant and healthy local business community.

Again, representatives of the Chamber of Commerce and the town's Economic Development Office saw the article as being yet another perceived negative for the business community and environment of Brookline, and one that would further contribute to the decline of local commercial enterprise.

DISCUSSION - Relative Comparisons

The foregoing discussion addresses very absolute issues in Brookline. On a relative basis, there is considerable data that puts Brookline in a perspective with other State communities. The spreadsheets that are referenced in the memorandum (Attachment 4) (though not included in this report), show that for FY 2002:

- 98 of the 341 communities for which data was available use the tax classification limit to shift property tax burden
- 14 communities, including Brookline, were at the 175% maximum (up from 9 in 2001)
- 19 communities exceed 170%
- 33 are between 150% and 170%
- the remaining 46 communities range from 102% to 149%
- Newton shifts 172%; Cambridge and Boston 169%; Waltham 160%
- Wellesley, Weston, and Concord do not use classification

The Advisory Committee did not identify, nor did attendees offer, rationale that would give meaningfulness to these comparisons. There are economic and statutory dimensions that affect such, and the Advisory Committee does not believe the data in the memorandum is persuasive regarding the "equitable" sharing of the property tax levy.

DISCUSSION - Exemption Issues

There is an existing exemption that addresses individual commercial properties with an assessed value of less than \$1,000,000. Brookline has not adopted it because there are few qualifying properties, and proportional allocation to individual businesses is not allowed. Attendees believed that four municipalities have adopted the exemption.

A discussion of the petitioner's proposed exemption ensued, and significant practical issues were identified. For one, in both Brookline's public and private sectors, reliable census data on business enterprises is lacking, including those conducted in mixed-use properties, which have yet another tax rate. The Assessor's office indicated that the exemption, if enacted and if adopted as proposed, would require an administrative burden that would start off with bad data, inadequate

tools, and no funding or human resources. And he felt it would be extremely unlikely that, assuming both elements of the article were enacted, and then implemented by the Selectmen, the exemption process would be in place at the time the tax levy was changed.

None of the business representatives the Advisory Committee heard from were supportive of a measure that created a division between the town's commercial interests.

The petitioner indicated he was prepared to yield the exemption element of his article.

RECOMMENDATION

Real estate tax assessments are a complicated zero sum game - if assessed values of one classification rise faster than another, the tax burden will consequentially shift towards that classification. And as Brookline's data irrefutably shows, the town's residential housing assessed values are rising faster than its business properties. It could be argued that if assessed values of particular classes are not representative of their market value, then the disparate values and tax levy would be "unfair", but no information came before the Advisory Committee that demonstrated these circumstances.

At the May, 2001 Town Meeting, a motion to refer a similar article to a Moderator's Committee was narrowly defeated. At that time, the Advisory Committee suggested the formation of a Moderator's Committee to study the town's tax policies was timely, given the ongoing efforts to develop a Comprehensive Plan and rewrite the Zoning By-Law. This year, the Advisory Committee was persuaded that very substantive issues were raised by the article and the public discussion that are well beyond the scope of its consideration of the article.

We believe that it remains timely to refer these issues to a Moderator's committee for further study, in a forum that allows for (i) broad issues identification, (ii) in depth consideration of them and (iii) actions plans, if necessary, that achieve fairness for both residential and commercial properties. It may well conclude that the status quo best balances the town's multiple interests, but we will never know without study. The issues include (i) the reasons for significant differences, if any, between assessed and market values, and (ii) attracting and retaining local, small business.

To this end, the Advisory Committee by a substantial majority vote recommends FAVORABLE ACTION, as amended, on a motion for the formation of a Moderator's Committee, which we hope will be composed of an objective, focused and committed group of Brookline residents, merchants, property owners, and town employees, supported by "expert" resources as needed as follows:

VOTED: To refer the subject of Article 19 to a Moderator's committee charged with (i) reviewing the Town's commercial property tax (ii) if appropriate, proposing modifications designed to ensure equitable treatment of all classes of property, while encouraging local, small business and (iii) reporting to the next annual Town Meeting.

XXX

ARTICLE 20

TWENTIETH ARTICLE

To see if the town will authorize and approve the filing of a petition with the General Court in substantially the following form:

AN ACT CONCERNING THE SALE OF ALCOHOLIC BEVERAGES IN THE TOWN OF BROOKLINE ON SUNDAYS.

Be It Enacted, etc., as follows:

Section 1. Notwithstanding any special or general law to the contrary, in the town of Brookline, the local licensing authority may authorize the holder of a license under section twelve, in General Laws, Chapter one hundred thirty-eight, to sell alcoholic beverages on Sundays between the hours of twelve midnight and two o'clock antemeridian.

Section 2. This act shall take effect upon its passage.

or act on anything relative thereto.

State law allows restaurants to serve alcoholic beverages until 2:00 AM every night but Saturday night. On Saturday night, restaurants can serve alcohol only until 1:00 AM. However, the law prohibits any alcoholic beverages being served more than one hour into the Sunday morning. This article requires a home rule petition. Major cities like Boston have already been granted a home rule petition to serve alcohol until 2:00 AM on Saturday night or two hours into the Sunday morning. Brookline patrons and restaurant owners alike have requested this Article to be presented to Town Meeting. Brookline restaurants should be kept competitive with the surrounding communities.

SELECTMEN'S RECOMMENDATION

This petitioned Home Rule Legislation would allow bars, restaurants, and hotels in Brookline to sell alcohol between 1:00 a.m. - 2:00 a.m. Saturday evening/Sunday morning. Current state law does not allow such establishments to serve alcohol after 1:00 a.m. Saturday evening/Sunday morning. Allowing these establishments this additional hour will help them stay competitive with the surrounding communities that currently are allowed to serve until 2:00 a.m. (Newton and Boston). In addition, Police Chief O'Leary appeared before the Board on this Article and indicated that he has no reservations about its adoption.

It should be noted that the Legislation would give the Board of Selectmen the authority to issue licenses with a 2:00 a.m. serving stop time. It does not automatically give the establishment the ability to do so. The Board, as part of its licensing duties and responsibilities, will use discretion when granting the one hour extension.

The Selectmen recommends FAVORABLE ACTION, by a vote of 5-0, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This proposed home rule legislation would allow the Board of Selectmen to authorize restaurants, taverns, etc. which are licensed to serve alcoholic beverages in Brookline to continue serving on Saturday nights until 2:00 a.m. the following (Sunday) morning as is permitted on all other days of the week, instead of having to stop at 1:00 a.m., which is mandatory under current state law.

DISCUSSION

This change would allow Brookline establishments to have the same closing hour as those in Boston and Cambridge, which have already received permission for 2:00 a.m. closings by special legislation, and would thus be a welcome benefit to local businesses. It would also serve the interests of Brookline residents who would not have to journey out of town if they wished to be served alcoholic beverages during the 1:00 a.m. to 2:00 a.m. time period early Sunday morning.

No objections to this legislation were raised by either town officials or private citizens, the only cautionary note being a reminder of the need for due diligence in preventing sales to underage or intoxicated patrons during the extended hour of operation, which the Advisory Committee is confident will take place.

RECOMMENDATION

Inasmuch as this proposed legislation would give support to local establishments and will also provide a convenience to Brookline residents, and in the absence of any objections being raised by members of the community, the Advisory Committee unanimously (one abstention) recommends FAVORABLE ACTION on the following vote:

VOTED: That the town authorize and approve the filing of a petition with the General Court in substantially the following form:

AN ACT CONCERNING THE SALE OF ALCOHOLIC BEVERAGES IN THE TOWN OF BROOKLINE ON SUNDAYS.

Be It Enacted, etc., as follows:

Section 1. Notwithstanding any special or general law to the contrary, in the town of Brookline, the local licensing authority may authorize the holder of a license under section twelve, in General Laws, Chapter one hundred thirty-eight, to sell alcoholic beverages on Sundays between the hours of twelve midnight and two o'clock antemeridian.

Section 2. This act shall take effect upon its passage.

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ARTICLE 21

TWENTY-FIRST ARTICLE

To see if the Town will authorize and approve the filing of a petition with the General Court in substantially the following form:

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE CERTAIN
TOWN-OWNED PROPERTY FOR TWENTY-FIVE YEARS

BE IT ENACTED, etc., as follows:

SECTION 1. The town of Brookline is hereby authorized to lease the town-owned property known and numbered as:

29 Avon Street,
15 Newton Street (the Carriage House and its contiguous site occupied
 by the Antique Auto Museum of Massachusetts at Larz Anderson
 Park, Inc., a non-profit Massachusetts corporation),

for a period not to exceed twenty-five years, upon such terms and conditions as the board of selectmen shall determine, provided that the terms and conditions of any lease shall be approved by a town meeting of said town:

SECTION 2. This act shall take effect upon its passage.

or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

This article would authorize the Town to file a Home Rule petition with the General Court that would allow the community to enter into contractual agreement with tenants of two Town-owned properties for a term not to exceed 25 years. The two properties are 29 Avon Street and 15 Newton Street (the Transportation Museum).

Current state law prohibits any leases of town-owned property to be longer than 10 years unless approved by the State. Article 17 of the 2001 Annual Town Meeting attempted to change the 10-year term that triggers State approval to 25 years, meaning the Town would not need State approval of any leases that are 25 years or less in length. While this "blanket" provision passed Town Meeting overwhelmingly, it did not make it through the Legislative process on Beacon Hill.

Therefore, instead of submitting similar Home Rule Legislation that would allow 25-year leases for all Town-owned properties without State approval, Article 21 specifies these two properties.

The logic behind a 25-year lease for these properties is that they are unique properties which would be better served if the rental agreement were extended beyond the current 10-year limit. In situations where the tenant's financial obligation to the community is to provide some form of rent that would be applied toward the maintenance of the premises, a longer term would allow the tenant the opportunity to gain loan support from a financial institution.

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

VOTED: That the Town authorize and approve the filing of a petition with the General Court in substantially the following form:

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE CERTAIN TOWN-OWNED PROPERTY FOR TWENTY-FIVE YEARS

BE IT ENACTED, etc., as follows:

SECTION 1. The town of Brookline is hereby authorized to lease the town-owned property known and numbered as:

- 29 Avon Street,
- 15 Newton Street (the Carriage House and its contiguous site occupied by the Antique Auto Museum of Massachusetts at Larz Anderson Park, Inc., a non-profit Massachusetts corporation),

for a period not to exceed twenty-five years, upon such terms and conditions as the board of selectmen shall determine, provided that the terms and conditions of any lease shall be approved by a town meeting of said town:

SECTION 2. This act shall take effect upon its passage.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

At the 2001 Annual Town Meeting, the Town voted to petition the General Court to enable the Town to lease its land for a period not to exceed 25 years without going to the General Court. Without this additional authority, the Town is authorized only to make 10-year leases without going to the General Court. However, the General Court did not approve the Article as passed by the Town, citing that the scope of the Article was too broad and must be more specific. Article

21, under consideration at this Town Meeting, attempts to be more specific in that it specifies 25-year leases for two town-owned properties: 29 Avon Street and 15 Newton Street.

DISCUSSION

Short leases of town-owned property creates extra work for the Town with little in return. For example, the Transportation Museum (15 Newton Street) at Larz Anderson Park wants to extend its current lease, and it is necessary to go to the General Court for an extension every 10 years. Moreover, Chapter 30B requires an RFP and bid process for each lease of its buildings. In some cases, a short lease will even prevent the lessee from obtaining funding for long-term capital improvements. The proposed article would permit leases for 25 years for the properties at 29 Avon Street and 15 Newton Street, encouraging capital improvements by the lessees. Both the Selectmen and Town Meeting shape and approve the lease under the conditions of the proposed article, permitting a thorough public review of each and every long-term lease of town-owned property.

RECOMMENDATION

The Advisory Committee unanimously recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 22

TWENTY-SECOND ARTICLE

To see if the Town will authorize and empower the Board of Selectmen to lease, in accordance with proposals submitted under General Laws, Chapter 30B, the town owned property known and numbered as:

27 Ackers Avenue

for not more than ten years and such additional terms and conditions determined by the Board of Selectmen to be in the best interest of the town, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

This article calls for authorizing the Board of Selectmen to lease a certain town-owned property, 27 Ackers Avenue, for not more than 10 years.

The Town will be issuing a Request for Proposals, in accordance with procedures required under General Laws, Chapter 30B, for 27 Ackers Avenue in the Spring. The property, which is a two-story, one bedroom single family home located on the Warren Playground, has been rehabilitated over the last several years by both the High School Renovation Team and Building Department staff.

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

VOTED: That the Town authorize and empower the Board of Selectmen to lease, in accordance with proposals submitted under General Laws, Chapter 30B, the town owned property known and numbered as:

27 Ackers Avenue

for not more than ten years and such additional terms and conditions determined by the Board of Selectmen to be in the best interest of the town.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

The Town-owned property at 27 Ackers Avenue has been rehabilitated over the last several years using volunteer labor, coordinated by Brookline High School, and Town supplied materials at a value of about \$20,000. The building is not currently occupied, but is ready to be leased. This Article authorizes the Board of Selectmen to lease this property for a period of up to 10 years.

RECOMMENDATION

The Advisory Committee unanimously recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 23TWENTY-THIRD ARTICLE

To see if the Town will accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the creation, preservation and support of community housing, the acquisition, creation and preservation of open space, the acquisition, creation and preservation of land for recreational use, the acquisition and preservation of historic resources, and the rehabilitation and restoration of such community housing, open space, land for recreational use and historic resources that is acquired or created as provided under said Act; to determine the amount of such surcharge on real property as a percentage of the annual real estate tax levy against real property; to determine whether the Town will accept any of the exemptions from such surcharge permitted under Section 3(e) of said Act; or act on anything relative thereto.

Motion to be offered by the petitioner:

VOTED: that the Town hereby accepts Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the creation, preservation and support of community housing, the acquisition, creation and preservation of open space, the acquisition, creation and preservation of land for recreational use, the acquisition and preservation of historic resources, and the rehabilitation and restoration of such community housing, open space, land for recreational use and historic resources that is acquired or created as provided under said Act; that the amount of such surcharge on real property shall be 2% of the annual real estate tax levy against real property; that such surcharge on real property shall commence in fiscal year 2004 of the Town; and that the Town hereby accepts the exemption from such surcharge permitted under Section 3(e) of said Act for property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town, as defined in Section 2 of said Act.

SELECTMEN'S RECOMMENDATION

Article 23, which was filed by petition, proposes that Town Meeting accept Sections 3 to 7, inclusive, of MGL Chapter 44 B of the General Laws of the Commonwealth of Massachusetts, otherwise known as the Massachusetts Community Preservation Act (CPA), by approving a referendum question to be considered by Town voters in November, 2002 for the establishment of a surcharge on real property for the purposes of: creating affordable housing opportunities; preservation and acquisition of open space; creation and preservation of land for recreation; and historic preservation.

The CPA, which became effective across the Commonwealth in December, 2000, enables communities, subject to approval by Town Meeting and acceptance by the voters of a referendum question, to establish a surcharge on real property of not more than 3% of the annual real estate tax levy. Three potential exemptions are enabled by the CPA for property owners that qualify as: low-income households or low- and moderate-income senior households; certain commercial and industrial activities; and for the first \$100,000 of value of residential real property.

If the referendum question is approved by the voters, at least 10% of the resulting funds annually must be allocated for open space, 10% for historic resources, and 10% for housing, with the remaining 70 % eligible for one or more of the permitted uses. The CPA funds may not be utilized to replace operating funds. A Community Preservation Fund (CPF) must be established and managed by the Treasurer. Expenditures are recommended by a 5 to 9 member Community Preservation Committee established by a by-law to be approved by Town Meeting. The recommendations of the Committee must also be approved annually by Town Meeting. Creation of a CPF in accordance with 44B would enable the Town to annually seek State grant funds resulting from a \$20.00 surcharge on filings at the Registry of Deeds, which is estimated to generate approximately \$26.4 million annually.

To date 68 communities have considered the CPA and 36 have passed the legislation including Newton (1% Surcharge) and Cambridge (3% Surcharge). Another 30 communities, including Brookline, are considering the CPA this year. Once adopted, the surcharge can be revoked in the same manner it was approved after 5 years. At any time following the approval of the surcharge, Town Meeting and the voters can amend the surcharge and eligible exemptions.

The proposed CPA warrant article can be summarized as follows (based on the April 11, 2002 proposal):

- 2% surcharge to commence in 2004
- Exemptions for property owned by low-income households and low- and moderate-income senior households

- Apply CPA surcharge revenues to CPA eligible projects from the Town's Capital Improvement Program (CIP)
- Available State matching funds to be primarily focused on affordable housing
- General real property taxes offset by CPA surcharge
- If State matching funds drop below 50% of local surcharge revenue raised, CPA to be revoked

Issues and Conclusions

The proposal presented by the petitioners to the Board of Selectmen appears unique in relation to proposals previously proposed or enacted by other towns to date in the Commonwealth. Rather than simply propose that Town Meeting and the Brookline voters consider a surcharge to generate revenues to be matched by available state funds to support affordable housing, open space, recreation, and historic preservation initiatives, a more complex approach is recommended that raises the following issues or conclusions that must be weighed by Town Meeting.

1. Brookline has established and maintained sound fiscal policies that successfully guide the Town's financial planning and management. The current CPA proposal would significantly alter those policies, possibly presenting a number of capital and operating budget impacts.
 - a. If CPA funds are allocated only to eligible Capital Improvement Program (CIP) projects, as identified by the FY 03 through FY 08 CIP, free cash normally applied only to capital projects would be redirected to offset the operating budget in order proportionally reduce the tax levy.
 - b. If free cash certified by the State were to significantly decline in any given year the CPA was active in Brookline, it would be necessary to reduce the operating budget or raise property taxes to maintain the proposed reduction in property taxes.
 - c. Today, the CIP is developed through an extensive process that screens potential projects based on clear and balanced priorities and criteria. The introduction of the CPA as part of the CIP process could significantly reorder and reprioritize overall capital expenditures.
 - d. The Brookline CPA Committee, which would be established pursuant to MGL Chapter 44 B and a new by-law to be approved by Town Meeting, would not be bound to solely consider CIP projects and could only coordinate with the CIP process. The introduction of alternative CPA eligible projects, not currently anticipated by the FY 03 through FY 08 CIP, could result in the deferral of previously prioritized projects to later years. The recommendations of the CPA Committee, if not fully coordinated with the CIP, could also present a competitive situation for Town Meeting to resolve.

- e. MGL Chapter 44 B requires that the CPA remain in effect for at least 5 years before Town Meeting and Brookline voters decide to eliminate the surcharge. The petitioner's proposal recommends that, at any time, if State matching funds fall below 50% of total local revenues, Town Meeting and Brookline voters consider a reduction in the surcharge to an infinitesimal percentage that will essentially all but disable the revenue generating capacity of the CPA. However, if CPA funding is committed to satisfy debt service on a bond that may be issued, then the CPA must remain at an appropriate level until the obligation is satisfied.
2. The CPA enables 5% of the revenues generated by the surcharge to be allocated to administration of the program. The proposal does not indicate whether existing or new staff would be supported by the CPA.
3. The proposal identifies a wide array of potentially eligible FY 03 through FY 08 CIP projects for CPA funding. These projects have been reviewed by the Department of Planning and Community Development. Many of the projects have been determined to be eligible for CPA funding since they meet the basic criteria. Others have been determined to be ineligible or only partially eligible for CPA funding. The petitioners have very broadly defined potential CPA project eligibility, particularly in regards to the definition of *preservation* which, pursuant to MGL 44 B, includes "protection of personal or real property from injury, harm or destruction, but not including maintenance." It will be essential that the Commissioner of Revenue for the Commonwealth reconcile any differences on the potential application of CPA funds.
4. The Town is now completing a new Comprehensive Plan for Brookline which will establish not only goals and policies, but also specific actions, strategies, and focus areas for addressing affordable housing, open space, recreation, and historic preservation issues and opportunities. A broad based Comprehensive Plan Committee has been established to work with the Planning Board and the Brookline community to complete the planning process by Spring, 2003. To date, the Committee has been fully briefed on the CPA and its potential applications in Brookline. In the coming months the Committee will evaluate the CPA's application and prepare recommendations as part of both the preliminary and final Comprehensive Plans. Since one of the primary objectives of the CPA legislation is to provide communities in Massachusetts with a tool to implement community planning objectives, the Town's comprehensive planning process provides an ideal opportunity to assess and confirm the CPA's application to Brookline in context with other needs and priorities our community faces.

In summary, the CPA proposal, as currently presented by the petitioners, requires that Brookline consider abandoning or revising sound and prudent financial planning and management practices that have contributed to the Town's fiscal well being. A CPA Committee, standing outside the normal appropriation process, would have the independent authority to propose actions that could

directly contravene the annual recommendations for appropriations, potentially effecting the annual budget and/or the tax levy. In addition, the proposal raises serious questions and could result in a number of unanticipated consequences that will require further discussion, clarification, and resolution.

The Board of Selectmen recommend NO ACTION, by a vote of 5-0, on Article 23 as submitted by the petitioners and as defined by the April 11, 2002 proposal.

ADVISORY COMMITTEE'S RECOMMENDATION

OVERVIEW

Warrant Article 23 asks Town Meeting to vote to place the Community Preservation Act (CPA) on the ballot for the voters of Brookline to determine if they will impose a surcharge on themselves (additional property tax) to create a fund for open space, preservation, and affordable housing, and thereby to qualify for state matching funds for the same purposes.

DISCUSSION

The Warrant Article is stated in general terms as an acceptance of Chapter 44B, Sections 3 to 7 which is the Community Preservation Act. The Proponents of the Warrant Article have indicated that they will offer the following motion to clarify the amount of the surcharge and other options under the Warrant Article:

Moved: that the Town hereby accepts Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the creation, preservation and support of community housing, the acquisition, creation and preservation of open space, the acquisition, creation and preservation of land for recreational use, the acquisition and preservation of historic resources, and the rehabilitation and restoration of such community housing, open space, land for recreational use and historic resources that is acquired or created as provided under said Act; that the amount of such surcharge on real property shall be 2% of the annual real estate tax levy against real property; that such surcharge on real property shall commence in fiscal year 2004 of the Town; and that the Town hereby accepts the exemption from such surcharge permitted under Section 3(e) of said Act for property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town, as defined in Section 2 of said Act.

The CPA was borne out of a movement on Cape Cod and the Islands to gain state assistance to preserve their rapidly disappearing open space. The concept was later adapted to include the

preservation and affordable housing aspects to meet the needs of more densely populated areas as well. The CPA as passed by the State Legislature set up a trust fund to receive money from a surcharge imposed on certain filings at the Registries of Deeds. That trust fund is estimated to be about \$25 million/year and is to be used to match the funds of local communities that accept the CPA and impose a local surcharge on their property taxes. [Presently the CPA trust fund is greater than \$25 million because funds accrued to the account for a year before any local communities were able to accept the CPA and collect their local surcharge funds in order to qualify for a match from the CPA trust fund.] Our neighbors Cambridge and Newton accepted the CPA last year as have 36 other cities and towns in the Commonwealth.

The amount of the state match in CPA funds that a city or town could potentially receive from the CPA trust fund depends on a number of factors of which the most important is the number of cities and towns that accept the CPA. Since the size of the trust fund is finite, the more cities and towns that participate in the program, the less each is likely to receive. In addition, the Act provides that a local community can set its surcharge at any rate up to 3%, but those communities that choose an amount less than 3% are likely to receive less if the state reaches a second or third round of distributions. In no event can a city or town get less than a 5% match or more than 100% match.

ARGUMENTS IN FAVOR OF CPA ACCEPTANCE

Many of us agreed that the goals of the CPA are worthy ones and the great attraction of the CPA is that it can bring into the Town additional state funds to supplement our own tax revenues to get more done in the areas of open space, affordable housing, and preservation. There were still many questions, however, about whether we should increase our already high property taxes; whether it was wise to cede control over a portion of the Town's budget to the CPA committee; and what items could be paid for using CPA funds.

The proponents of Warrant Article 23 have argued that we could adopt the CPA without actually raising homeowners' property tax bills. The City of Cambridge, which was below its Proposition 2 1/2 tax limit, has for a number of years been raising its tax levy to create additional funds for affordable housing. It had been placing this additional money directly in housing trust fund. In addition, it had been allocating certain money to open space and preservation needs. Together, these funds totaled about \$5 million annually. When Cambridge voters accepted the CPA, the City simply lowered the tax levy by \$5 million and then added the CPA surcharge, which amounted to about \$5 million. Taxpayers received property tax bills about equal to what they had been paying previously and they were able to accomplish this without affecting their operating budget in any way since they were simply moving the funds that had been previously earmarked for the same purposes and were served by the CPA.

The proponents have suggested that we in Brookline lower our levy by 2% (roughly \$2 million annually) and then add the CPA surcharge for the same amount, so that we could accept the CPA without higher tax bills as did Cambridge. Clearly the CPA envisioned communities raising additional money for the CPA, and the Act states: "The community preservation funds shall not

replace existing operating funds, only augment them.” However, the Department of Revenue, which is administering the program, sent Cambridge a letter stating that it would not withhold the state matching funds due to this approach. A lawyer for the DOR told a member of the Advisory Committee that while the DOR did not really feel that the Cambridge approach was within the spirit of the Act, the DOR also did not feel that it had the authority to withhold the matching state funds. Any challenge to this approach would have to come in the form of a taxpayer legal challenge. Therefore, it appears that at least under the present interpretation of the DOR, Brookline could do as the proponents suggest and lower our levy and replace it with the surcharge. The proponents have further suggested that we have an exemption from the CPA surcharge for low-income families.

The proponents have also argued that this is the ideal time to accept the CPA. Since not too many towns and cities have yet accepted it, the match for the next year or two at least is likely to be 100%. However, if Town Meeting votes to put this on the ballot and the voters accept it in November, we would not begin to get matching funds until fiscal '05 and by '06 the match is already projected to be slightly less than 100%. [This projection was done by the proponents, using what they think is a conservative approach.] It will go down from there, as more cities and towns participate. If the CPA is accepted by the voters, it can be revoked by the voters after 5 years. The proponents have suggested that if the matching money seriously declines we would revoke the CPA. However, if in the meantime the Town has bonded any CPA projects, the voters cannot remove the surcharge to the extent it is necessary to pay the indebtedness on the bonds. [The proponents have suggested that at a general election the voters could choose to lower the surcharge to 0 during the 5-year period, effectively repealing the Act early.]

The proponents have also given a sample list of items that are presently on the CIP that they believe could be funded with CPA money so that the impact on the budget of decreasing the levy by \$2 million would be minimal (see below for objections to that argument).

ARGUMENTS AGAINST ACCEPTANCE

1. The money, both that raised by the Town through the surcharge and the state matching funds, would be administered by a CPA committee. Though 5 of the members are appointed (“one member of the conservation commission ...as designated by the commission, one member of the historical commission ...as designated by the commission, one member of the planning board ...as designated by the board, one member of the board of park commissioners ...as designated by the board, and one member of the housing authority ...as designated by the authority”), the other 4 members could be elected. This committee must spend 10% in each of the three areas of affordable housing, preservation, and open space, but it can then allocate the remaining 70% as it feels appropriate. Its recommendation then comes before Town Meeting, but if Town Meeting disapproves of the recommendation and votes against it, that money cannot be reallocated by Town Meeting. It can be banked for future CPA expenditures if Town Meeting does not like the spending proposal put forth by the CPA committee. So, in other words, Town Meeting can stop the CPA committee from spending the money in a manner it disapproves, but it cannot direct or force the CPA committee to spend the money in any other way. Many on the

subcommittee felt that this process of a small committee controlling a substantial portion of the budget without true accountability had an extra-governmental feeling to it that was seriously counter to our ways of public process and review which have been fairly successful in the budgeting process in Brookline. The proponents have suggested that in passing a by-law concerning the administration of the CPA, we could insist that the CPA committee go through the Advisory Committee and Selectmen in reviewing their spending plans; but a review of the act suggests that the CPA committee would still be free to disregard any direction or advice it received from any other body.

2. Presently, we look at the Town's needs in the budgeting process as a whole. The CPA would give an absolute priority in the budget process to the three areas that it covers: open space, affordable housing, and preservation. Some members of the Advisory Committee felt that the schools, public safety, and public works have traditionally been our top priorities in the budget and that while the CPA goals are important, they should not displace these areas as top priorities. Although the CPA would bring in additional state funds to cover the open space, preservation, and affordable housing projects, acceptance of the Act would make us significantly less flexible in the budgeting process. We have experienced a cut in Local Aid this year, and anticipate that '04 and possibly '05 will be very difficult years as well, with declining revenues. Thus, this may be a particularly bad time to make our budget process much less flexible.

The proponents have argued that the CPA monies could be used to fund many of the items that are on the CIP. This in effect would mean that we would not feel that impact of reducing the tax levy by 2% because we would do the same projects but substitute the source of funding, and in addition, we would get the state matching CPA money to do additional projects. There appear to be several flaws with this argument. First, under the current language of the CPA, a number of items from the CIP that the proponents are proposing to fund with CPA money would not be eligible. You cannot use CPA money to preserve/rehabilitate buildings that you already own (such as the Lawrence School). The DOR created some confusion on this issue by issuing some statements that you could use CPA money on historic buildings you already owned and then retracting those statements. A reading of the plain language of the CPA says you cannot do so, and a DOR lawyer confirmed that that is their current interpretation of the CPA. The DOR says it is firm that they now have it right. There is however, a bill pending before the State Legislature that was filed by State Senator Fargo from Bedford, which would allow a city or town to use CPA money on its existing historic buildings, including improvements to comply with ADA accessibility. The proponents and the DOR lawyer differed in their opinion as to how likely and how soon passage of this bill would be.

The proponents also would define the word "preservation" very expansively in determining which of our CIP projects would qualify for CPA funding. You are not supposed to use the money for ordinary maintenance and repair, but some of the items currently on the CIP that the proponents suggest could be funded with CPA money would seem to fall much more into the maintenance category than into the preservation category. At least until the State Legislature passes the bill to expand the use of CPA money, it does not appear that we have \$2 million worth

of CPA projects on the CIP. Therefore, if we reduced the levy by \$2 million, it is possible that we would have to use free cash to fund the operating budget and/or take many other items off the CIP. Our current fiscal disciplines have resulted in Brookline being in better financial shape during this year of reductions in Local Aid than many of our neighboring communities. This seems like a bad time to undercut those policies.

3. Many of the members of the Advisory Committee simply felt that there were too many questions remaining to put this issue on the ballot at this time. Some of these questions may be answered as other communities use the CPA, such as what items can legitimately be funded with CPA money. Also, there may be a way to have the CPA Committee be more answerable to Town Meeting and more part of the existing budgeting process, although how that might be accomplished is not clear from the reading of the CPA at present. There was a sentiment among a number of members of the Committee that this issue is important, as are the goals of the CPA, and that we should perhaps consider putting it on the ballot at some time in the future if the Legislature changes some of the flaws in the Act and when some of the confusion is cleared away as to how the CPA money can be used.

4. There have been suggestions by some of the proponents that we should vote for this to go on the ballot simply to allow the voters to have a chance to evaluate it. However, the Advisory Committee felt that we should not recommend it to the voters when the issues are still so confusing and some fundamental flaws in the Act have not been addressed by the Legislature. It is not clear that the benefits of the CPA (additional state funds and dedicated funds for open space, preservation, and affordable housing) outweigh the costs to the Town (undermining the fiscal discipline of the budget process; the public participation and review of the budget; and the full participation of Town Meeting in budget decisions). There is a process by which the proponents can collect signatures from 5% of the registered voters to put the item on the ballot, even without the recommendation of Town Meeting.

RECOMMENDATION

The Advisory Committee by a substantial majority recommends NO ACTION on Warrant Article 23.

ARTICLE 24TWENTY-FOURTH ARTICLE

To see if the town will raise and appropriate, or appropriate from available funds, a sum of money, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the removal of the Carlton Street footbridge, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATIONBACKGROUND**Feasibility Study I – Structural Analysis and Recommendations**

In FY'98, \$25,000 was appropriated to study the structural integrity of the footbridge and explore the feasibility of various options, including removal, replacement, and restoration. Ammann & Whitney, an engineering firm specializing in bridge structures, was selected for this charge by a Committee-of-Seven, chaired by the Commissioner of Public Works and composed of staff and interested citizenry.

At the appointment of the Board of Selectmen, the Carlton Street Footbridge Advisory Committee (CSFAC), composed of 17 concerned citizens, provided significant public input that helped to guide the development of the Final Report and Recommendations. Based on both report findings and public participation, the CSFAC, in a majority vote, concluded with a series of recommendations to the Board of Selectmen. The Selectmen held a Public Hearing, at which the Consultant and CSFAC presented the initial report and recommendations. Public sentiment at the Hearing was divided and further concerns and support were voiced.

Feasibility Study II – Related Issues Investigations

As a result of the issues raised at the first study's Public Hearing, and at the recommendation of the Board of Selectmen, Town Meeting voted to appropriate \$27,500 for further study. Six categorical issues were listed for additional study: 1) Universal Accessibility; 2) Transportation (Bike, Pedestrian, Vehicular); 3) Funding Strategies; 4) Historical Significance; 5) Cost Estimates; and 6) Public Safety. A Selectmen's Subcommittee-of-Seven, chaired by Selectman

Gil Hoy and composed equally of neighborhood proponents for removal and restoration (drawn from the original CSFAC), was formed in order to oversee Consultant selection and the additional studies.

Pressley Associates, a Cambridge landscape architectural firm, was chosen to review the historical significance of the footbridge and establish its relationship to Olmsted and the Emerald Necklace Master Plan. William Terrill, an Assistant Professor with Northeastern University's College of Criminal Justice, was charged with conducting the Public Safety study. Conley Associates, a Boston engineering firm specializing in transportation studies, was selected to review cost estimates, investigate outside funding strategies, report on approaches to accessibility compliance, and investigate pedestrian, bicycle, and vehicular transportation patterns/demands on and at both sides of the footbridge.

Consultant reports were prepared and Executive Summaries distributed to all Town Meeting Members. On January 22 of this year, the Board held a Public Hearing at which the Consultant teams presented their findings and members of the Footbridge Subcommittee, along with other citizens, spoke to the report topics. The Engineering Division, as well as the Selectmen and the Subcommittee, agreed that the studies provided greater insight and more comprehensive answers to outstanding issues surrounding the footbridge; however, mitigation costs, if removed, remained uncertain and accessibility compliance, if restored, appeared a fundamental factor to cost, design, and functionality.

DELIBERATION

Subsequent to the January Public Hearing, Warrant Articles 24 and 25 were filed, the first asking for an appropriation of funds for the removal of the Carlton Street Footbridge and the second for an appropriation of funds for the reconstruction and repair of the footbridge with full American with Disabilities Act (ADA) compliance.

Deliberations as to whether to rehabilitate or remove the footbridge identified the lack of clarity in the estimated costs of both these alternatives, specifically possible mitigation costs should the footbridge be removed, and the need for more solid figures for the provision of full accessibility compliance (not contained in the second study and only estimated in the first study).

At the Board's initial hearing on March 26 for Articles 24 and 25, the Selectmen specifically asked that steps be taken to clarify the issue of mitigation. On April 2, the Engineering Division wrote to MEPA requesting clarification on the process and obligations that the Town should expect if the footbridge were reconstructed or removed.

The Secretary of Environmental Affairs responded within the text of the MEPA Certificate, issued April 16 for the Draft Environmental Impact Report for Phase I of the Emerald Necklace Environmental Improvements Master Plan. Given the range of opinions within the Town about the Footbridge, the Secretary's response is printed virtually in full below for the direct review for all interested parties:

“I recognize that the Master Plan is a living document, intended to evolve to meet the changing requirements of proper resource stewardship and the needs of the surrounding communities. Some well-conceived changes to the Master Plan may be appropriate after careful review (e.g., reconsideration of a paved bicycle path on the Boston side of the River). Nonetheless, the decision to include the rehabilitation of the bridge within the Master Plan was made after careful consideration of the historic importance of the bridge, and its role in providing access to the Olmsted Park system as well as a link between the adjoining neighborhoods of Boston and Brookline. In recognition of the historic value of the bridge, MHC has determined that the demolition of the bridge would constitute an “adverse effect” on the State and National Register Olmsted Park System.

After review of the record, including the Master Plan and supporting materials, and the opinion of MHC, I find that the Carlton Street Footbridge is historically significant and is an integral component of the Olmsted Park System, and its eventual rehabilitation and reopening is an established part of the wider Emerald Necklace rehabilitation effort. This Certificate assumes that the Town will act in good faith to expeditiously implement the elements of the Master Plan within its control, including the rehabilitation and reopening of the Carlton Street Footbridge.

Any change in the Town’s commitment to rehabilitate and reopen the footbridge will require, at a minimum, the filing of a Notice of Project Change (NPC) to the Muddy River Project. Upon review of the NPC, I will make a determination as to what alternatives require consideration, although any analysis would certainly include a requirement to study a no-action alternative and an alternative that involves rehabilitation of the footbridge. As part of the review, I would also make a determination, in consultation with MHC and other appropriate parties, as to how any adverse effects to historic resources might be avoided, minimized, or mitigated. Any analysis would also need to discuss the implication of obtaining future state funding for Master Plan elements in light of any decision to abandon an important element of the Master Plan and demolish an historic resource such as the footbridge.

As part of the March 26 hearing, the Board also received remarks from the Chairman of the Commission for the Disabled, Robert Sneirson. He followed up with a written request to delete from the proposed motion of the petitioners the words “consistent with its historic design”. His proposed change is printed below with the recommended deletion italicized so the intention of the Commission Chairman is clear:

“To see if the town will appropriate a sum of money, to be expended under the direction of the Board of Selectmen, for the cost of engineering services for plans and specifications for and for the reconstruction and repair of the Carlton Street Footbridge, with provision for full American With Disabilities Act *compliance consistent with its historic design*; determine whether such appropriation shall be raised by taxation, transferred from available funds, provided by borrowing or any combination of the foregoing; and authorize the Board of Selectmen to apply for, accept and expend grants, gifts, aid and reimbursements from federal, state and private sources and agencies for such purposes, provided that the project will only proceed if no less than 60% outside funding is obtained; or act on anything relative thereto.”

In his transmittal e-mail, the Commission Chairman stated “I will not give up hope that the bridge can be made accessible until an architectural firm that has a great deal of experience with historic preservation convinces me otherwise”.

RESOLUTION

Given the growing emphasis on mitigation and accessibility, it is not surprising that there is increasing attention to the issue of costs associated with any future option for the Footbridge. The Resolution adopted by the Selectmen and offered for Town Meeting’s consideration attempts to allow more opportunity to examine these cost factors. The Engineering Division has confirmed that within its existing budget it can perform additional cost analysis of the various options that could eventually be pursued. Further, the Resolution recommends aligning any appropriation for the project with the CIP and capping the Town’s eventual financial exposure.

As an alternative to either Article 24 or Article 25, the Selectmen recommend FAVORABLE ACTION on the following Resolution:

**RESOLUTION
CARLTON STREET FOOTBRIDGE**

WHEREAS, the future status of the Carlton Street Footbridge has been under active review by various Town departments, committees, and consultants for four years; and

WHEREAS, more than \$62,000 has already been expended on feasibility studies since FY98; and

WHEREAS, the funding plan for whatever future action is taken on the Footbridge should be consistent with the Town’s established schedule of the Capital Improvements Plan; and

WHEREAS, for the well being of the immediate neighborhood, the community at large and all other interested parties, various analyses should be prepared to permit a final resolution regarding the Carlton Street Footbridge to be adopted at a future Town Meeting.

NOW THEREFORE, BE IT RESOLVED:

That the Selectmen are requested to provide an article in a FY04 Warrant that requests that \$30,000 be appropriated for the cost of preliminary plans for and other preliminary costs associated with the reconstruction, relocation and removal of the Carlton Street Footbridge, inclusive of mitigation, with provision, in the event of either reconstruction or relocation, for full ADA compliance; and

That the Selectmen are authorized to apply for grants, gifts, aid and reimbursements from federal, state and private sources and agencies for such purposes, provided that no Town funds in excess of those specifically authorized above shall be expended or committed without authorization at a future Town Meeting; and

That this Town Meeting's determination is that the Town's funding share is not to exceed the greater of \$100,000 or 13% of the total cost for all project phases subsequent to preliminary plans and other preliminary costs authorized above, including, but not limited to, final design, engineering, construction, relocation, or removal, and mitigation.

ADVISORY COMMITTEE'S RECOMMENDATION

The Advisory Committee has not completed its analysis of Articles 24 and 25. Our recommendations will be sent out in a Supplemental Report.

XXX

ARTICLE 25

TWENTY-FIFTH ARTICLE

To see if the town will appropriate a sum of money, to be expended under the direction of the Board of Selectmen, for the cost of engineering services for plans and specifications for and for the reconstruction and repair of the Carlton Street Footbridge, with provision for full Americans With Disabilities Act compliance consistent with its historic design; determine whether such appropriation shall be raised by taxation, transferred from available funds, provided by borrowing or any combination of the foregoing; and authorize the Board of Selectmen to apply for, accept and expend grants, gifts, aid and reimbursements from federal, state and private sources and agencies for such purposes, provided that the project will only proceed if no less than 60% outside funding is obtained; or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Article 24 is directly related to Article 25. Please see the Selectmen's recommendation under Article 24.

ADVISORY COMMITTEE'S RECOMMENDATION

RECOMMENDATION

The Advisory Committee has not completed its analysis of Articles 24 and 25. Our recommendations will be sent out in a Supplemental Report.

ARTICLE 26

TWENTY-SIXTH ARTICLE

To see if the Town will vote to amend Section 2.5.2 of the Town By-Laws by adding, after the second paragraph, the following new paragraph:

The Combined Reports shall include, with each recommendation of the Board of Selectmen and the Advisory Committee, a statement of the number of members voting for and against the recommendation and a roll-call showing the vote of each member. When a minority report is presented, the Combined Reports shall identify the members supporting the minority report.

or act on anything relative thereto.

Before every Town Meeting, we receive the Combined Reports, containing recommendations from the Board of Selectmen and the Advisory Committee on each article in the Warrant. But we are never told who voted how, whether it was a close vote or an overwhelming vote. We are sometimes told when it was a unanimous vote, but that is the only indication.

As Town Meeting Members, our votes are made in public. We have a Moderator's Committee considering how we can take more roll-call votes, so that our constituents can tell how we voted. Should we not ask the same of the Selectmen and the Advisory Committee?

In the case of the Selectmen, this information is already available at Town Hall, but one must search for it. We should not have to search for this information, it should be provided for each Article in the Combined Reports.

It will be argued that it is an onerous requirement to require a roll-call of the votes of the Advisory Committee. But most votes of the Advisory Committee are unanimous or nearly so, and attendance is already taken at meetings. For most votes, it can be fairly quickly ascertained which Advisory Committee members have voted for or against the recommendation. It should not be an onerous requirement to conduct a roll-call for the relatively few votes for which one should be needed. Town Meeting has the right to know how the members of its principal standing committee voted on the recommendations presented.

SELECTMEN'S RECOMMENDATION

Article 26, as originally drafted, would have required that these Combined Reports include the votes of each member of both the Board of Selectmen and the Advisory Committee. After discussion of the article, a majority of the Board believed that the roll-call portion of the requirement should not apply to the Advisory Committee; they should only be required to report the vote (i.e., 13-2).

In terms of the Selectmen, however, a roll-call vote should be included in the name of public accountability. Therefore, a majority of the Board is in favor of an amended version of Article 26 that requires a roll-call vote for Selectmen and a statement of the number of Advisory Committee members voting for and against the recommendations on all warrant articles in these Combined Reports.

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-1, on the following vote:

VOTED: That the Town vote to amend Section 2.5.2 of the Town By-Laws by adding, after the second paragraph, the following new paragraph:

The Combined Reports shall include, with each recommendation of the Board of Selectmen, a roll-call showing the vote of each member; and shall include, with each recommendation of the Advisory Committee, a statement of the number of members voting for and against the recommendation. When a minority report is presented, the Combined Reports shall identify the members supporting the minority report.

ROLL CALL VOTE:

Favorable Action

Kalikow

Hoy

Goldberg

Allen

No Action

Geller

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This Warrant Article, as proposed, would require a published roll call for every recommendation of the Board of Selectmen and the Advisory Committee in the Combined Report. It would also require identification of the members of both bodies supporting a minority report.

Currently, there is no such requirement but in recent years, the Advisory Committee has been careful to describe in the Combined Report the nature of the majority behind a recommendation using terms such as “unanimous,” “nearly unanimous,” “substantial majority,” “simple majority” etc.

DISCUSSION

The Advisory Committee does not currently take roll call votes due in large part to time constraints. In addition, many members feel very strongly that publishing a roll call vote on every recommendation published in the Combined Report threatens the very nature of the Advisory Committee. Town Meeting needs non-political, objective analysis and advice from the Advisory Committee. Its current role should be preserved.

Advisory Committee Structure and Function

The Committee operates pursuant to state statute, which requires a finance committee in all towns having more than \$1 million in tax revenues. In Brookline, the finance committee is called the Advisory Committee. The Committee is appointed by the Moderator. The Town By-Laws require that the Committee have 1 member from each precinct and can have up to 6 “at large” members (not town meeting members). The Committee currently consists of 23 members, 6 of whom (26%) are “at large.”

The Committee has a number of roles that include:

1. Presenting the Town Budget to Town Meeting
2. Studying and making recommendations to Town Meeting on all matters before it
3. Acting as the Town’s fiscal watchdog
4. Authorizing Reserve Fund transfers for emergency and unanticipated expenses

To perform these roles, the Committee is organized into subcommittees, which hold public hearings to conduct fact finding and provide proponents and opponents to an issue an opportunity to present their views. After the public hearing, the subcommittee will usually prepare a written report and make a presentation to the full Advisory Committee. The Committee members then have an opportunity to ask questions, debate the issues, and express their views. A vote is then taken that forms the basis of the recommendation in the Combined Report. This recommendation may often include a motion to amend a Warrant Article.

Advisory Committee members are volunteers who donate considerable amounts of time and serve without pay. In FY 2001, the full Advisory Committee met 36 times and sub-committees met 48 times. Members also serve on additional town committees including the Town/School Partnership, Audit Committee, Comprehensive Plan, Zoning By-Law Review, Redistricting, Commercial Areas, and Information Technology Advisory Committee, among others.

Proponent Arguments

The proponents made the following arguments in favor of the Article with respect to the Advisory Committee:

1. Town Meeting members have a right to know how Advisory Committee members voted.
2. They have seen Advisory Committee members vote one way in the Advisory Committee and another on the floor of Town Meeting. This Article will permit public accountability of such changes in position
3. The terms used in the Combined Report to describe the nature of the majority are ambiguous and subject to interpretation.

The main proponent also stated that with respect to the annual budget article, it was his intention to require only one published roll call under the original wording, since the Advisory Committee recommends the entire budget as one article.

Opponent Arguments

The Advisory Committee is an appointed body whose most important function is to provide Town Meeting Members with the information necessary to decide an issue on their own. The Committee does this by, after engaging in the fact finding and decision making process described above, (1) describing the issues in the Combined Report, (2) presenting arguments both for and against the issue and (3) then making a recommendation. In essence, the Advisory Committee's most important role is to help frame the debate.

The Advisory Committee views itself as a provider of objective analysis and advice on issues, each no more important than the other. Town Meeting many times votes differently than the Committee's recommendation, but it always considers the analysis it presents. The Committee believes that the publishing of a roll call vote on every recommendation would unintentionally emphasize the recommendation of the Advisory Committee to an extent greater than its analysis. In other words, the scorecard would distract from the analysis.

The Committee also believes that a published roll call would introduce a level of politics into the Advisory Committee that doesn't currently exist. Town Meeting needs non-political, objective analysis and advice from the Advisory Committee. Its current role should be preserved.

With respect to tracking changes in position, Advisory Committee votes often take place 5-7 weeks prior to Town Meeting and in the intervening weeks there are many substantive reasons why a Committee member may wish to reconsider his or her vote. These reasons include new arguments presented both for or against an issue, new facts that come to light or a new compromise reached between competing stakeholders. In fact, the Advisory Committee has a procedure to reconsider past votes and routinely uses that procedure.

For the Advisory Committee members who are also Town Meeting Members (26% of current Advisory Committee members are not Town Meeting Members), they are held accountable to their constituents in the same manner as any other Town Meeting Member.

With respect to the comments regarding the lack of precision in characterizing the Advisory Committee votes, we note that Advisory Committee votes, are by their very nature, not very precise. With any large Committee, the membership attending on any given night varies and a different Committee composition may change how a vote goes. This fact underlies the importance of Town Meeting Members focusing more of their attention on the Advisory Committee's analysis and less on the vote tally.

The Committee will continue to be careful to describe in the Combined Report the nature of the majority behind a recommendation using terms such as "unanimous," "nearly unanimous," "substantial majority," "simple majority" etc. This characterization allows Town Meeting Members to gauge how close the vote was. Whether an Advisory Committee vote is described as 10-8, 11-10, or a "simple majority" should have no bearing on Town Meeting votes. The important fact in such a vote is to note that it was close; an indication that there is a diversity of opinion on the Advisory Committee on the topic. Again, the scorecard should not distract from the analysis.

The Advisory Committee noted that the Selectmen already take a roll call on every recommendation to Town Meeting though it is not currently published in the Combined Report. While it would be no extra effort would be required to indicate how each Selectman voted, the Committee was persuaded especially by the argument that Selectmen votes on recommendations to Town Meeting also take place 5-7 weeks prior to Town Meeting. A Selectman should also be free to change their mind on issues as new facts come to light, new arguments made, or new compromises reached.

RECOMMENDATION

By a substantial majority, the Advisory Committee recommends **NO ACTION** on this warrant article.

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ARTICLE 27TWENTY-SEVENTH ARTICLE

That the Town Meeting, by its affirmative vote at the Annual Meeting, establish the PUTTERHAM MEADOWS GOLF COURSE ENTERPRISE COMMISSION by adopting the following:

SECTION 1: There is established effective July 1, 2002, a commission of the Town which will be known as the PUTTERHAM MEADOWS GOLF COURSE ENTERPRISE COMMISSION (the "COMMISSION").

SECTION 2. The commission shall consist of five (5) citizens of the Town who shall initially be the five (5) members of the Putterham Meadows Golf Course Advisory Committee on June 30, 2002. The terms of such initial members shall expire on June 30, 2003, and thereafter, the Town Moderator shall appoint members for three (3) year terms commencing July 1, 2003 as follows: two in 2003; one in 2004; and two in 2005. Thereafter, upon the expiration of the term of each member, the Town Moderator shall appoint a member for a term of three years. Whenever a vacancy occurs, a member shall be appointed by the Town Moderator to fill the remainder of the unexpired term.

SECTION 3. While the Town Moderator may appoint such persons as he may deem qualified and appropriate, he should, using as a guideline, if and as possible, include as members of the Committee persons with training, experience or understanding with respect to financial controls and reporting, commercial, contract, and municipal law, facilities management, and the organization and management of golf activities for which the Putterham Meadows Golf Course is or may be used.

SECTION 4A. The Commission shall have such care, custody and control of the land and improvements owned by the Town of Brookline, numbered 1281 West Roxbury Parkway and generally being all of the land, buildings, and improvements currently utilized and known as the Putterham Meadows Golf Course (the "Facility"), that would permit the Commission, solely or in conjunction with the Town's Department of Public Works, whichever may be deemed lawful and/or appropriate, to do everything necessary or desirable to operate, maintain and enhance, in a prudent and business like manner designed to be self sustaining, the Facility.

SECTION 4B. The Commission, in addition to other duties conferred thereon, would have the responsibility to conduct, independently, an audit review of the activities, budgets, revenues and expenditures of the Enterprise Fund established for the Putterham Meadows Golf Course. To periodically prepare and file reports, no less than once annually, Such report(s) shall include, but not necessarily be limited to, the appropriateness and issues of compliance in the utilization and

effectiveness in the application of receipts and expenditures at the Putterham Meadows Golf Course.

SECTION 5. After notice and a hearing, the Town Moderator may remove a member of the Commission for good cause shown and may also remove a member if such removal is recommended by a majority vote of all the remaining members of the Commission (not including the member whose status is at issue) for failure to perform Commission duties or to abide by Commission rules and procedures duly adopted. If the Commission makes such a removal recommendation to the Town Moderator, the Town Moderator will investigate the facts and circumstances and schedule a public hearing at which the Commission shall have a right to appear and give evidence.

SECTION 6. The Commission may, from time to time, after a public hearing, adopt rules for its own governance and adopt rules and regulations for the governance of the Facility.

SECTION 7. The Commission shall elect, annually from among its members, a Chairman, and may elect such other officers as its rules may provide.

SECTION 8. The Commission shall submit to the Selectmen and to the Advisory Committee, a comprehensive annual written report on its operations and activities, and on the financial affairs of the Facility, and an interim status report on such matters at six month intervals between annual reports. In addition, for purposes of budgeting and to enhance public information concerning the Facility and the performance of the Commission. The Commission and the Selectmen shall schedule a joint meeting semi-annually, at which meeting the Commission will summarize its recently submitted report and be prepared to answer any question thereon.

SECTION 9. The Commission shall submit, as a part of the regular municipal budget process, to the Selectmen and the Advisory Committee, an annual operating budget including utilization in the next fiscal year of funds from operating receipts of the Facility. Each year the Commission shall present for comment, to the Selectmen and the Advisory Committee, a rolling five year capital and facility plan.

SECTION 10. The accounts of the Facility shall be audited annually as part of the Annual Town Audit, and the Commission shall take such additional steps as it may deem necessary or desirable to insure a high degree of confidence in the controls of the Facility's receipts and expenditures.

SECTION 11. For the purposes of Section 12 of Chapter 30B of the Massachusetts General Laws, the Commission may enter into leases of the restaurant and golf maintenance contracts for a term or terms not exceeding three (3) years or upon such terms permitted or approved pursuant to the laws of the Commonwealth of Massachusetts.

Being cognizant of ACTS, 1981, - Chapter 32. AN ACT REORGANIZING THE DEPARTMENT OF PUBLIC WORKS AND THE PARK AND RECREATION COMMISSION IN THE TOWN OF BROOKLINE, that the Town Meeting, by its affirmative vote, establish the Commission as described above to operate the Putterham Meadows Golf Course; or, in conjunction therewith or alternatively, establish the Commission with advisory oversight powers as enumerated in Section 4B, above; or that the Town Meeting, by its affirmative vote, authorize and direct the filing of a home rule petition to repeal Chapter 32 of the Acts of 1981; or by its affirmative vote, act on anything relative thereto and consistent herewith.

Motion to be offered by the petitioner:

That the Town Meeting, by its affirmative vote at the Annual Meeting, establish the PUTTERHAM MEADOWS GOLF COURSE ENTERPRISE COMMISSION by adopting the following:

SECTION 1. There is established effective July 1, 2002, a commission of the Town which will be known as the PUTTERHAM MEADOWS GOLF COURSE ENTERPRISE COMMISSION (the "COMMISSION").

SECTION 2. The commission shall consist of five (5) citizens of the Town who shall initially be the five (5) members of the Putterham Meadows Golf Course Advisory Committee on June 30, 2002. The terms of such initial members shall expire on June 30, 2003, and thereafter, the Board of Selectmen shall appoint members for three (3) year terms commencing July 1, 2003 as follows: two in 2003; one in 2004; and two in 2005. Thereafter, upon the expiration of the term of each member, the Board of Selectmen shall appoint a member for a term of three years. Whenever a vacancy occurs, a member shall be appointed by the Board of Selectmen to fill the remainder of the unexpired term.

SECTION 3. The Board of Selectmen shall appoint as members of the Commission such men and/or women who, in their judgment, are residents of the Town and deem qualified and appropriate, using as a guideline that the members of the Commission have, by previous skill, training or experience, qualifications and understanding of (1) financial budgeting, controls and reporting, (2) commercial transactions, contract negotiations and management, (3) business and facilities management, and the organization and management of golf activities for which the Putterham Meadows Golf Course is to be utilized.

SECTION 4A. The Commission shall have such care, custody and control of the land and improvements owned by the Town of Brookline, numbered 1281 West Roxbury Parkway and generally being all of the land, buildings, and improvements currently utilized and known as the Putterham Meadows Golf Course (the "Facility"), that would permit the Commission, solely and/or in conjunction with the Town's Department of Public Works, as the Commission may

reasonably determine, to do everything necessary or desirable to operate, maintain and enhance the Facility, in a prudent and business like manner as a self sustaining Facility.

SECTION 4B. The Commission, in addition to other duties conferred thereon, would have the responsibility to conduct, independently, an audit review of the activities, budgets, revenues and expenditures of the Enterprise Fund established for the Putterham Meadows Golf Course, the Facility. To periodically prepare and file reports, no less than once annually, Such report(s) shall include, but not necessarily be limited to, the appropriateness and issues of compliance in the utilization and effectiveness in the application of receipts and expenditures of the Enterprise Fund at the Facility.

SECTION 5. After notice and a hearing, the Board of Selectmen may remove a member of the Commission for good cause shown and may also remove a member if such removal is recommended by a majority vote of all the remaining members of the Commission (not including the member whose status is at issue) for failure to perform Commission duties or to abide by Commission rules and procedures duly adopted. If the Commission makes such a removal recommendation to the Board of Selectmen, the Board of Selectmen shall investigate the facts and circumstances and schedule a public hearing at which the Commission shall have a right to appear and give evidence.

SECTION 6. The Commission may, from time to time, after a public hearing, adopt rules for its own governance and adopt rules and regulations for the governance of the Facility.

SECTION 7. The Commission shall elect, annually from among its members, a Chairman, and may elect such other officers as its rules may provide.

SECTION 8. The Commission shall submit to the Selectmen and to the Advisory Committee, a comprehensive annual written report on its operations and activities, and on the financial affairs of the Facility, and an interim status report on such matters at six month intervals between annual reports. In addition, for purposes of budgeting and enhancing public information concerning the Facility and the performance of the Commission, the Commission and the Selectmen shall schedule a joint meeting semi-annually, at which meeting the Commission will summarize its recently submitted report and be prepared to answer any question thereon.

SECTION 9. The Commission shall submit, as a part of the regular municipal budget process, to the Selectmen and the Advisory Committee, an annual operating budget including utilization in the next fiscal year of funds from operating receipts, capital improvements and reserves of the Facility, in conformity and in compliance with MGLA Chapter 44, Section 53F1/2, otherwise known as the "Enterprise Funds" law. (A copy of Section 53F1/2 is attached for your information.) Each year the Commission shall present for comment, to the Selectmen and the Advisory Committee, a rolling five year capital and facility plan.

SECTION 10. The accounts of the Facility shall be audited annually as part of the Annual Town Audit, and the Commission shall take such additional steps as it may deem necessary or desirable to insure a high degree of confidence in the controls of the Facility's receipts and expenditures.

SECTION 11. For the purposes of Section 12 of Chapter 30B of the Massachusetts General Laws, the Commission may enter into leases of the restaurant and golf maintenance contracts for a term or terms not exceeding three (3) years or upon such terms permitted or approved pursuant to the laws of the Commonwealth of Massachusetts.

SELECTMEN'S RECOMMENDATION

The Putterham Meadows Golf Course is an extraordinary asset to the Town. Situated on 122 acres of land in south Brookline, the facility offers valuable public recreation opportunities for both residents of Brookline and of neighboring communities. It provides for the protection and preservation of the Town's open space. The facility is self-supporting, generating all revenue from the users of the facility. It provides revenue back to the community, which further supports other education, public safety, and cultural and recreational activities of the Town.

Under the stewardship of the Park and Recreation Commission, a number of goals and objectives have been established to strengthen the operation of the facility. These are:

- To maximize the public use of the golf course by providing for an attractive, affordable, and easily accessible use of the facility for all citizens;
- To strengthen the financial condition of the golf course that would allow it to support all activities, provide for a financial recompense to the Town, and to provide reserves to stabilize revenue flow in the event that weather related or other events diminish the use of the facility;
- To maintain and improve the facility through capital improvements to both the grounds and buildings of the golf course.

The annual budget of the golf course, while including all of the operating expenses, payment of debt service and personnel benefits, rental payment to the town, and establishing a liquidity reserve for revenue loss due to inclement weather, is self-supporting. The specific detail of financial operations is as follows:

- The personnel cost, including all personnel benefits, is \$300,502, or 21% of the overall Golf budget. There are 3.5 employees assigned to its operation. In addition, 10% of the Recreation Director's salary is included in the personnel cost.

- The largest single expense of the course is a ground maintenance contract that provides for the care and maintenance of all Tee areas, fairways, and greens. This contract includes all trimming, cutting, edging, aerification, and fertilization of the course. In addition, it maintains flower beds, plantings, and tree maintenance. The operation and maintenance of the irrigation system is also included as a contractual service.
- The Park and Recreation Commission has established a strong commitment to improving the capital infrastructure of the grounds and facilities of the golf course. As a result of the Ryder Cup, the course was the beneficiary of \$700,000 for the improvement of the grounds. Supplementing that effort, last year the Annual Town Meeting authorized a capital plan for grounds and facilities in the amount of \$2.8 million, to be borrowed over a five-year period. This multi-year approach improves the facility while spreading the cost out, to keep the fees competitive with other public courses.
- The Town receives an annual fee from the golf course for the use of town-owned land, which helps support education, public safety, and other leisure and recreation activities. The payment has ranged from \$175,000 to \$250,000. The goal is to generate funds equal to the level of taxation generated by a private golf course of this size. The Board of Assessors has calculated that this sum would be in a range of \$250,000 to \$325,000.
- The Town receives an annual loan payment of \$25,000 per year. Last year, the Town gave the golf course a loan to resolve a cashflow problem. This condition was caused by severe winter weather conditions, which closed the facility for a short period during the prime golf season.
- As a result of the experience of lost revenue due to severe weather conditions, the Park and Recreation Commission has adopted a financial policy to slowly build a liquidity reserve for the purpose of protecting the facility against such an event.

The financial plan described above is solely supported by revenues generated from golf fees, cart rentals, pro shop sales revenue, and food vendor revenues. This plan has strengthened the financial condition of the facility, expanded accessibility to citizens of Brookline and neighboring towns, and improved the capital facilities. While accomplishing all of this, the Park and Recreation Commission has established fees that make the facility competitive with other public golf courses.

The Board of Selectmen supports these goals. It is our belief that the Park and Recreation Commission has a comprehensive plan that will allow the facility to remain self-supported, continue a program of capital improvements, protect the Town's open spaces, and allow maximum access by citizens of all economic or physical conditions.

The Selectmen recommend NO ACTION, by a vote of 5-0, on this article.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

The petitioners of Warrant Article 27 seek to establish an Enterprise Commission of five citizens of the Town who would be appointed to run the Putterham Golf Course. It is presently run by the Parks and Recreation Commission, together with the Town's Recreation Department.

DISCUSSION

The Petitioners cited several reasons for changing the management arrangement for the Putterham Meadows Public Golf Course:

- (1) The Park and Recreation Commission and the Recreation Director do not and cannot focus enough time on Golf Course matters compared to other Town park and recreation programs. Instead, another separate entity, such as the Enterprise Commission mentioned in the article, could dedicate the appropriate time and effort demanded by the Golf Course.
- (2) Through an agreement between the Selectmen and the Park and Recreation Commission, the Golf Advisory Committee (GAC) was established last year to advise the Recreation Department and the Commission on golf course matters. However, *some* members of the GAC have felt that their advice has been ignored. They were unhappy when ADA modifications currently under construction at the Clubhouse were projected to cost twice as much as the budgeted amount and subsequent changes in plans were made without GAC consultation. They would have preferred to see more money spent on improvements to the course and pathways for golf carts.
- (3) The supporters of the article claim that comparable public golf courses in North Reading and Hingham are better managed and maintained and bring more revenue to their towns than does Putterham Meadows. These golf courses are managed by golf enterprise commissions, which are the models for Article 27. In addition, a golf enterprise commission should consist of members with expertise in finance and golf course management, resulting in better management and revenues. However, it was pointed out that these golf courses were initially private courses and may not be completely comparable with Putterham Meadows.

Members of the GAC chose to file this Warrant Article rather than to bring their concerns to the Park and Recreation Commission, although the GAC was set up to advise Parks and Recreation. Therefore, there was discussion as to whether this article is inappropriate. In addition, the Putterham Meadows Golf Course has had significant improvements over the last ten years. The following has been done:

- (1) The Enterprise Fund has encouraged \$1.15 million in capital improvements and returned over \$1.3 million to the Town as a Town "fee".
- (2) The Park and Recreation Commission in FY2001 established a nine-year business plan that includes master plans for the course and its associated buildings. The 2001 Annual

- Town Meeting voted to approve six years of this renovation through the Town's CIP for a total expenditure of \$2.84 million.
- (3) The Park and Recreation Commission has modified policies and fees in recent years that have increased revenues and made desirable playing times more available to all Town residents. Fairness and access to all at the course are primary goals of the Parks and Recreation Commission.
 - (4) Currently there is sufficient expertise in place to manage the Golf Course and an audit is conducted on the golf course enterprise account yearly by the Town.
 - (5) Comparison with other towns can be misleading; for example, the courses in Hingham and North Reading were formerly private country clubs and came to their towns in excellent condition, unlike Putterham Meadows.
 - (6) There are other advantages to the Town that stem from the Park and Recreation Commission and Recreation Department's management of the Golf Course. For example, currently the Town barter playing time at the Golf Course with Boston University in exchange for the High School's hockey team ice time at BU's skating rink. The fact is the Town uses the Golf Course in support of many other programs and cannot be considered just a golf course. The Golf Course's value derives from its use both as a recreational facility per se and as a support to other programs throughout the Town.

RECOMMENDATION

The focus of this article is the replacement of the current management of the Golf Course by Park and Recreation Commission and the Recreation Department with a separate dedicated golf enterprise commission. There were several issues raised about integrating such a commission within the current structure in a positive way. While it is apparent that at least some golfers feel that their input is not being heard on matters relating to golf course management, it was the opinion of the Advisory Committee that this Article is not an appropriate remedy.

The Advisory Committee unanimously recommends NO ACTION.

ARTICLE 28

TWENTY-EIGHTH ARTICLE
Reports of Town Officers and Committees