



**WARRANT ARTICLE EXPLANATIONS  
FILED BY PETITIONERS FOR THE  
NOVEMBER 17, 2015 SPECIAL TOWN MEETING**

**ARTICLE 1**

Submitted by: Board of Selectmen

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

**ARTICLE 2**

Submitted by: Human Resources

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

**ARTICLE 3**

Submitted by: Board of Selectmen

This article is inserted in the Warrant for any Town Meeting when budget amendments for the current fiscal year are required. For FY2016, the warrant article is necessary to appropriate higher than projected State Aid, re-allocate School Department funding between Group Health and School-related Repair and Maintenance, and to amend the Water and Sewer Enterprise Fund.

**ARTICLE 4**

Submitted by: Board of Assessors, Council on Aging

This article provides for an increase of \$125 over the current abatement of \$1,000 for certain eligible senior taxpayers for fiscal year 2016 and accepts, prospectively, the additional scheduled increases in the state minimum wage, while maintaining the standard of 125 volunteer services hours, thus increasing the amount of the exemption by an additional \$125.

The statute permits the Board of Selectmen to establish a property tax work-off program for taxpayer's 60-years old, or older. Under the program, qualified taxpayers volunteer their services to the Town in exchange for a reduction in their tax bills. The current amount Brookline can abate is \$1,000.00 in taxes per property. The abatement would be granted by the Board of Assessors based on a 'Certificate of Service' issued by a Town department head supervising the volunteer services. The credit earned for worked performed could be at a rate no more than the state's minimum wage (current at \$9.00 per hour). Qualifying taxpayers retain their eligibility

for other statutory exemptions including the residential exemption. The Town's program can set the income limits to be imposed. The Board of Assessors & Council on Aging is recommending an annual income limit of \$48,800 based on the HUD standard single-member household, median family low income limit. There would be NO asset limit requirements. Program volunteers performing services in return for property tax reductions would be considered employees for purposes of municipal tort liability. Earned reductions will be applied to the actual tax bill for the fiscal year, not the preliminary (1st & 2nd quarter) tax bills. The amount of the property tax reduction earned by the taxpayer under this program is not considered income or wages for purposes of state income tax withholding, unemployment compensation or workman's compensation. The IRS has ruled, however, that the abatement amount will be included in the taxpayer's gross income for both federal income tax and FICA tax purposes.

The Board of Selectmen, with 2008 Town Meeting authorization, established the program and directed the Board of Assessors and the Council on Aging to oversee its administration, originally as a pilot program for Fiscal Year 2009, limiting the number of participants to 20. The current program has 30 participants. The maximum cost of the program to the Town for FY2016 would be \$33,750 (\$1,125/ taxpayer-volunteer) and be funded through the overlay reserve account.

Because the senior tax-work off exemption program is based on the state minimum wage and the state minimum wage is scheduled to increase in 2016 and 2017, the petitioners also wish to fix the volunteer hours, as allowed by statute, at 125-hours, and increase the amount of the exemption as required, as follows:

For fiscal year 2016: \$1,125.00 (125-hours x \$9.00/hour)  
For fiscal year 2017; \$1,250.00 (125-hours x \$10.00/hour)  
For fiscal year 2018: \$1,375.00 (125-hours x \$11.00/hour)

## **ARTICLE 5**

Submitted by: Neil Gordon, TMM1

In November, 2005, Special Town Meeting voted favorable action on a Warrant Article accepting clause Fifth B of MGL Chapter 59, Section 5, the effect of which was to increase to \$700,000 the property tax exemption of the Brookline VFW and American Legion Post property located at 386 Washington Street.

The Post is currently assessed at over \$600,000 and may exceed the \$700,000 limit by the next assessment. This warrant article, if approved, would increase the exemption limit to the statutory limit of \$1,500,000, so that the Post property located at 386 Washington Street remains exempt from property tax.

(Note: The petition was drafted stating the current exemption as \$750,000 when, in fact, it is \$700,000. This will be corrected by amendment.)

Clause Fifth C of MGL Chapter 59, section 5 reads as follows:

“The real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in which the United States has been engaged, to the extent of \$1,500,000, if used and occupied by such association, and if the net income from the property is used for charitable purposes, but the estate shall not be exempt for any year in which the association, or the trustees holding for the benefit of the association, willfully fails to file with the assessors the list and statement required by section 29. This clause shall take effect upon its acceptance by any city or town. In a city or town which accepts this clause, clauses Fifth, Fifth A and Fifth B shall not be applicable.”

Clauses Fifth A and Fifth B read as follows:

“Fifth A, The real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in which the United States has been engaged, to the extent of four hundred thousand dollars, if actually used and occupied by such association, and if the net income from said property is used for charitable purposes; but it shall not be exempt for any year in which such association or the trustees holding for the benefit of such association willfully omit to bring into the assessors the list and statement required by section twenty-nine. This clause shall take effect upon its acceptance by any city or town. In those cities and towns which accept the provisions of this clause, the provisions of clause Fifth shall not be applicable; provided, however, that the state treasurer shall annually reimburse the city or town an amount equal to the reimbursement, if any, granted to such city or town under said clause Fifth for the most recent fiscal year in which it received such reimbursement.”

“Fifth B, The real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in which the United States has been engaged, to the extent of seven hundred thousand dollars, if used and occupied by such association, and if the net income from said property is used for charitable purposes; provided, however, that such estate shall not be exempt for any year in which such association or the trustees holding for the benefit of such association willfully omit to file with the assessors the list and statement required by section twenty-nine. This clause shall take effect upon its acceptance by any city or town. In a city or town which accepts the provisions of this clause, the provisions of clause Fifth and Fifth A shall not be applicable.”

## **ARTICLE 6**

Submitted by: Parks and Recreation Commission

Funding for the Town’s non-reimbursable portion of this project to “raise and appropriate \$660,000, to be expended under the direction of the Commissioner of Public Works, for costs associated with improvements to the roadways and pathways at Larz Anderson Park” was approved by a vote of Town Meeting on Tuesday, May 28, 2013. In order for the Town to be eligible for the reimbursable PARC grant program, Town Meeting must appropriate the maximum value of the grant (\$400,000 to be expended and reimbursed) and protect the investment in park land improved.

## **PROJECT DESCRIPTION:**

Larz Anderson Park has the distinction of being not only the largest park in Brookline at over 65 acres, but also one of the most historically and culturally significant landscapes. The site is the former estate of Larz Anderson and his wife Isabel Weld Perkins Anderson, an elite social couple of the early 20th century, and is listed on both the National and State Registers of Historic Places. Larz Anderson Park is the flagship park of the Town and is free and open to the public year round. The park is a regional destination with over 180 parking spots and thousands of visitors annually, of all ages and abilities, who enjoy it for both active and passive recreation. Highlights and park features include walking paths, athletic fields, play equipment, picnic areas and a picnic shelter with grills, an open air ice skating rink, restrooms, parking, community gardens, as well as a privately run auto museum. The landscape consists of rolling hills, lawn, meadow, woodlands, significant trees, and a pond with an attractive seasonal fountain. Visitors to the park can enjoy outstanding views of the Boston skyline from the Top of the Hill area of the park and over the course of the year, people can be found flying kites, sunbathing, walking dogs, and sledding on the sweeping slopes below. Tucked into the landscape are many architecturally and historically significant structures, including temples, bridges, pergolas, gazebos, sculptures, walls, and decorative fences all influenced by the Anderson's extensive travels.

The Larz Anderson Park Project will repair, restore and/or replace critical access and infrastructure elements in the park including key multimodal circulation features and structures such as pedestrian paths, stairs, historic bridges, parking, a carriage road, lighting, and drainage. Many visitors enjoy walking in the park, especially around the picturesque Larz Lagoon, with its 1462 linear feet of bordering water resource and historic tempietto, fondly known as the Temple of Love, and adjacent weeping willows. Water-based recreation at the park also involves other more passive pursuits such as bird watching, relaxing and enjoying popular picnic areas next to the water, all of which rely on park pathways for circulation and access. The pathways, stairs and bridges in this area are currently in poor condition due to their age and amount of use. Additional pathways and stairs in the park that connect to the athletic fields, the auto museum and the carriage road, are also in poor condition with crumbling edges and uneven surfaces. In addition to making these much-needed repairs, this project will add a perimeter path around the park, as recommended in the Larz Anderson Master Plan, to connect destinations and to create a long loop path. The addition of the loop path is a significant recreational enhancement that will improve access, enjoyment, visitation, and health and wellness opportunities within the park.

The carriage road through the park is critical for overall access, given the size and topography of the park, particularly for elderly and handicapped persons. In addition to repair/reconstruction of the carriage road, drainage infrastructure and erosion will be addressed. Lighting will be added or replaced at existing entrances for improved visibility, safety and to better welcome and direct visitors, whether pedestrians or those arriving by vehicle or bicycle. Improved safety lighting is necessary to support evening recreational uses at the park, such as the outdoor skating rink and public events hosted by the Auto Museum. Finally, the comfort station will be upgraded with some structural, accessibility, ventilation and facade improvements. Completion of these critical infrastructure and environmental improvements will enhance the recreational benefits of the park, provide for greater inclusion, improve health and wellness opportunities, address significant access and safety needs, and better serve all park visitors.

## **ARTICLE 7**

Submitted by: Patricia Connors, TMM3 and Cornelia H.J. van der Ziel, TMM15

The town of Brookline recognizes the importance of providing earned sick time to employees in order to safeguard the public health, keep the cost of health care down, and allow workers to take care of themselves and their families. Voters approved ballot initiative Question 4 entitled, "Earned Sick Time for Employees," on November 4th, 2014, providing that employees may earn and use sick time if they must be absent from work for certain reasons. Brookline voters approved Question 4 by a vote of 72% to 24% with 4% blanks. This law allows employees to use earned sick time to look after their own medical needs or the needs of family members, or to address issues related to domestic violence. It requires an employer of eleven or more employees to provide a minimum of one hour of earned paid sick time for every thirty hours worked by an employee up to 40 hours of earned paid sick time in a calendar year. Workers employed by a town are not included under this law unless Town Meeting votes to accept the law as required by Article CXV of the Amendments to the Constitution of the Commonwealth. To learn more about this law, go to:

<http://www.mass.gov/ago/docs/government/earned-sick-time-law.pdf>

## **ARTICLE 8**

Submitted by: Janice S. Kahn, TMM15

This warrant article continues efforts made by Town Meeting over the past ten years for "good government" and greater transparency. Modeled after Article 3.20 (Mandatory Educational Training For All Elected And Appointed Officials) of the Town's By-laws, Article 2.1.14 (Mandatory Educational Training For All Town Meeting Members) would require all Town Meeting Members to take an educational training on conflict of interest law either on-line or at an educational training seminar hosted by the Office of Town Counsel. This requirement would need to be fulfilled just once during a Town Meeting Member's tenure; and all elected and appointed officials who have met the training requirements under Article 3.20 will not need to take the training again.

The on-line training provided by the State Ethics Commission takes about an hour to complete and in an introductory slide notes: "The conflict of interest law serves the public interest by promoting integrity and confidence in public service." For town meeting, the training would encourage town meeting members to disclose outside influences that might impair their objectivity before addressing the legislative body.

Why mandatory training for Town Meeting Members? In Brookline's representative town meeting form of government Town Meeting Members, during warrant article debates, often look to their colleagues who have particular expertise to help provide a clearer understanding of the issues. Disclosure of any conflicts of interest will provide greater transparency and set the stage for an honest discussion of the issues involved by providing a context for a speaker's comments.

This bylaw would be for educational purposes only, to raise the bar for ethical behavioral expectations at Town Meeting. As a side benefit, it would also serve to inform Town Meeting

Members who may in the future seek to be appointed to a board or commission in the Town, the legal requirements of the conflict of interest law which are applied to special municipal employees.

The Town Meeting Members Handbook (p. 14) discusses ethical considerations that Town Meeting Members should be aware of when speaking at Town Meeting: "...under well recognized principles of ethics, any person should, prior to addressing Town Meeting, disclose any material economic interest that he or she or any member of his or her immediate family or any close business associate has in the particular matter under consideration. Similarly, any person who is employed in any capacity, such as attorney, architect, broker, etc., by another interested in the Article under discussion should disclose that relationship before speaking."

Approximately 20% of Town Meeting Members currently serve on an appointed board or commission and are subject to the State conflict of interest law as "special municipal employees". They are also required (with certain exemptions) by Town statute, to attend an educational training seminar hosted by the Office of Town Counsel or meet with Town Counsel or a member of Town Counsel's staff to receive the information and training. That by-law requires training in both Conflict of Interest Law and the Open Meeting Law. Article 2.1.14 would require educational training only on Conflict of Interest Law and would be fulfilled by completing an on-line training available on the State Ethics Commission website <http://www.mass.gov/ethics/>.

The fact that Chapter 268A of Massachusetts General Laws exempts Town Meeting Members from the provisions of conflict of interest law because of the special status of Town Meeting Members as elected voters rather than elected officials (unless appointed to a board or commission), should not deter Brookline Town Meeting from approving this warrant article. Brookline Town Meeting has previously passed legislation that is not required by State statute and may in fact foreshadow state law. For example, Brookline, often a leader on issues, was first in the Commonwealth to ban smoking in restaurants (this is now State law as well).

In a representative Town Meeting form of government it is essential that Town Meeting Members maintain high ethical standards when engaging in debates on the legislative issues that come before this deliberative body. This amendment to Article 2.1 "Town Meetings" of the Town's General By-laws would affirm the commitment of elected town meeting members to that high standard.

## **ARTICLE 9**

**Submitted by:** David Lescohier, TMM11 & Ernest Frey, TMM7

This Article will provide increased openness to Town Meeting Members and citizens of Brookline by requiring a Public Hearing in conjunction with the annual review of the Water and Sewer Rates proposed to the Board of Selectmen by the Water and Sewer Division of the Department of Public Works.

For most households, the Water and Sewer Bill is second only to the Property Tax Bill that is payable to the Town of Brookline. But, usually the first time that residents learn about a rate

increase is when they receive their Water & Sewer bill in late summer or early fall, after the fiscal year rates have already been approved by the Board of Selectmen. By then, it is too late to register any meaningful reaction to the rates.

<b>Water and Sewer Charge Comparisons</b>				
	2013	2014	2015	2016
Water and Sewer Charges	\$25,850,955	\$25,910,938	\$26,438,588	\$27,877,905
Water and Sewer Revenue Increase		0.23%	2.04%	5.44%
Property Tax Revenue	\$170,137,612	\$175,738,902	\$182,239,292	\$188,609,198
Percent Water and Sewer Compared to Property Tax	15.19%	14.74%	14.51%	14.78%

Passing this warrant article will give early notice of rate changes to the general public, so that timely information is available in order that informed comments may be registered with the Selectmen or the Water and Sewer Division, as desired.

The current practice is for the Director of the Water and Sewer Division to appear before the Board of Selectmen in a regular meeting just prior to the beginning of the Fiscal Year for which the rates are to be effective. Currently, public comment may be accepted by the Chair, but it is not required.

<b>Water and Sewer Rate Structure</b>					
<b>Block Rates</b>		<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
1 <sup>st</sup> 7hcf/quarter		\$5.20	\$5.40	\$5.50	\$5.75
Above 7hcf/quarter		\$12.50	\$12.75	\$12.90	\$13.45
Water service only (irrigation)		\$5.00	\$5.15	\$5.25	\$5.50
<b>Base Charge/yr (meter size)</b>	<b>Number of Meters (as of approx. 2013)</b>				
.625	6,451	\$200	\$200	\$200	\$240
.75	1,656	\$240	\$240	\$240	\$280
1	1,516	\$320	\$320	\$320	\$360
1.5	503	\$480	\$480	\$480	\$520
2	207	\$640	\$640	\$640	\$680
3	48	\$960	\$960	\$960	\$1,000
4	28	\$1,280	\$1,280	\$1,280	\$1,320
Water service only (irrigation)	1,672	\$20	\$20	\$20	\$40
(One hcf equals 748.052 gallons.)					

The water and sewer rate structure is based on both the amount of water used and the size of the meter between the household to the water mains. The first 7 hundred cubic feet (hcf) in each quarter is at a lower rate. The use above 7 hcf is at a higher rate. Since water used for irrigation does not flow into the sewer, the sewer portion of the rate is omitted, but this rate is a bit lower still.

The base charge is the same whatever the amount of water purchased. This charge, billed quarterly depends on the size of the meter. Since the meter size rarely changes, this portion of the bill is stable and predictable.

The revenue that depends on usage, charged at a lower and then a higher rate, is more volatile since the amount of water that households purchase is somewhat uncertain from year to year and has been trending down.

With this structure, part of the revenue is stable and is expected to match the costs of billing, administration, maintenance, debt service, and management of Brookline's water and sewer infrastructure. The usage-dependent portion, under this structure, aims to match the MWRA assessment for the water delivered to Brookline and the sewage received from Brookline.

## **History**

There was a Public Hearing in June 2011, when the current Block & Base Rate Charge Structure was introduced. All of the public comment recommended that the changes not be implemented because of concern about possible inequity in the proposal. And while the proposal was tweaked (principally in the Base Charges), the concept moved forward by vote of the Selectmen at their next weekly meeting.

This was the only Public Hearing regarding Water & Sewer Rates from 2008 to 2015. The only other meeting at which public comment was accepted by the Selectmen for the annual increase was 2014.

In 2001, Town Meeting converted the water and sewer finances into an enterprise fund, which means that the Town must use only water and sewer revenue to defray water and sewer expense. Expenses fall into three broad categories:

First, relatively stable expenses for staff, related costs to manage and maintain the system, issue bills, and provide customer service.

Second, the planned capital expenses to repair and replace the infrastructure and payment of the associated debt.

Third, usage related MWRA assessments for water delivered to the Town and associated sewage.

In 2011, when the Board of Selectmen changed the water and sewer rate structure, the aim was to accommodate the decreasing water consumption trend which is resulting in decreased revenue. Other concerns were to reduce revenue volatility and achieve an equitable cost

distribution among Brookline water and sewer customers. The goals of the new structure were to minimize revenue volatility, equitably distribute cost among customers, introduce block rates, capture revenue from public building water and sewer use, introduce an equitable rate structure for irrigation, and institute a fire service charge for buildings with sprinkler systems.

### **Other Ideas Related to Setting Water and Sewer Rates**

The value to the Town of the public hearing requirement is that receiving a diversity of views and recommendations from interested individuals may assist the Board of Selectmen's decision making. Here are examples of the kind of questions that could be addressed through a public hearing:

Should the goal be to equalize cost amongst housing types for the same volume of water use? Is this the same as fairness?

If we accept that an aim of a base charge is to apportion the cost of maintenance and infrastructure, wouldn't this suggest that multi-family unit owners actually cost the Town much less on a per capita basis? Shouldn't those unit owners reap some benefits for the infrastructure efficiency of their mode of living?

Is a recurring charge for fire service justified?

What about water conservation? Does the block rate structure encourage conservation in the multi-unit building setting when the over 7hcf level is quickly triggered due to the multiplier effect of all those units?

Has the new rate structure indeed achieved a revenue stream that is more stable, closer to the actual cost? Have revenues exceeded cost?

### **Reasons for this Warrant Article**

- Water is a necessity of life.
- The cost of water and sewer service exposes Brookline residents to a significant expense, averaging approximately one-seventh of the average property tax.
- The Board of Selectmen under state law must establish just and equitable rates and have great discretion in setting Brookline's rates and rate structure. Communities in Massachusetts have developed and adopted many rate structures and strategies.
- An open, public process will encourage ongoing evaluation and public comment about the impact of water and sewer rates and the rate structure on Brookline residents.

### **Summary and Conclusion**

This Warrant Article requires a Public Hearing as part of the rate setting process. At least 30 days prior to that Public Hearing, the proposed rates must be circulated to all Town Meeting Members and to the general public, along with a report to support those rates and provide

information on the impact on Brookline residents with various levels of usage in various types of buildings.

The town should aim to adopt a sustainable rate structure for water and sewer that balances the need to collect enough revenue for enterprise fund solvency with equity for Brookline customers. While a perfect structure may not be possible, the current formula, which looked fine in 2013, after four years of experience, appears, as rates increase, to be gradually deviating from the intended equity goal.

At some point, the structure will, we believe, need to be renewed or replaced, either at the initiative of the Water and Sewer Division, directed by the Board of Selectmen, or in response to a Town Meeting warrant article resolution.

The added openness afforded by this bylaw will ensure an informed public process, identifying the extent of any adjustments that may prove necessary to maintain an equitable and sustainable balance of all interests. Further, this process will provide an opportunity to consider diverse views regarding the definition of the equitable distribution of the costs. Looking broadly at the rate structure, it may be that each household paying the same is not the best or only approach.

**Additional Explanation: Billing Examples**

Here are two examples showing the total of the quarterly water and sewer bills for one year using 2016 rates. The first column is single family household with a 5/8 meter using 100 hcf per year. The second column is a condo with a 5/8 meter. Condos with 5/8 meters average 2.98 households per building, and in this case each household is using 100 hcf per year.

<b>Two Household Bill Calculations: 100 hcf, 5/8 meter</b>			
SF HH, 100 hcf, 5/8 meter	Charge	Condo, 2.98 HH, 100 hcf / HH, 5/8 meter	Charge
Base	\$240	“	\$240
Block 1 (28 x \$5.75)	\$161	“	\$161
Block 2 ((100-28) x \$13.45)	\$968	(298-28) x \$13.45	\$3631
Total (building)	\$1369		\$4033
Total / HH, HH = 1, (\$1369/1)	\$1369	Total / HH, HH = 2.98, (\$4033 / 2.98)	\$1353
Difference: 1% ((1369 - 1353) / 1369) x 100			

**Additional Explanation: An Example of an Impact on Equity Analysis Methodology- Usage, Building Size, Rates**

Since the adoption of the current rate structure, the Water and Sewer Division has been able to keep revenue and expenses in balance. However, as the charts presented in the Impact Analysis below indicate, the adopted rate structure has limitations with respect to equity for various categories of customers. While equity, defined as each household paying the same for the same

quantity of water, was initially quite satisfactory in the first year of implementation, with each increase in rates in following years, equity, using this definition, has decreased. In view of the likelihood that there will continue to be increases in MWRA assessments and normal increase in other expenses in line with the overall increases in the Town's budget, equity is likely to further suffer until the current structure is reconsidered and structural improvements are adopted.

For the purposes of this analysis, Brookline water and sewer residential customers have been divided into categories based on the amount of water they purchase from 32 to 512 hundred cubic feet (hcf) per year and the size of the building from single family to 256 apartments. (One hcf equals 748.052 gallons.)

Billing data show that the correlation between building size and meter size is not as exact or linear as these charts assume. However, while the details from building to building may vary, we believe many of these variations offset each other leaving the assumptions we have adopted as the best and most straightforward model for the relationship between rates, usage, and building size.

However, while the model looks at the impact of rates on categories of customers, it does not provide any information about the impact of the rate structure on revenue. While very important to the management of Brookline's Water and Sewer Division, this is beyond the scope of our analysis. The Water and Sewer Division uses its billing data to determine the rates needed to maintain the stability of the enterprise fund. The calculation we have presented is an independent procedure that indicates the impact of the Water and Sewer Division's calculated rates on equity. Under the current structure we believe that stability and equity are somewhat in opposition to each other and that as rates grow, inequity will continue to increase and, likely, become of progressively greater concern.

Water and Sewer Bill Impact on Brookline Residents by Usage and Building Size

2013 Rates

	Number of Households on the Meter	Typical Meter Size	Cost per HH for 32 hcf per year	Cost per HH for 64 hcf per year (2x)	Percent cost per HH is not double	Cost per HH for 128 hcf per year (4x)	Percent cost per HH is not quadruple	Cost per HH for 265 hcf per year (8x)	Percent cost per HH is not eight times	Cost per HH for 512 hcf per year (16x)	Percent cost per HH is not sixteen times
HCF / yr usage			32	64		128		256		512	
	1	.625	\$396	\$796	0.55%	\$1,596	0.83%	\$3,196	0.96%	\$6,396	1.03%
	2	.625	\$398	\$798	0.28%	\$1,598	0.41%	\$3,198	0.48%	\$6,398	0.52%
	4	.625	\$399	\$799	0.14%	\$1,599	0.21%	\$3,199	0.24%	\$6,399	0.26%
	8	.75	\$404	\$804	-0.55%	\$1,604	-0.83%	\$3,204	-0.97%	\$6,404	-1.04%
	16	1.0	\$407	\$807	-0.90%	\$1,607	-1.35%	\$3,207	-1.58%	\$6,407	-1.69%
	32	1.5	\$409	\$809	-1.07%	\$1,609	-1.61%	\$3,209	-1.88%	\$6,409	-2.02%
	64	2.0	\$407	\$807	-0.84%	\$1,607	-1.27%	\$3,207	-1.49%	\$6,407	-1.59%
	128	3.0	\$406	\$806	-0.73%	\$1,606	-1.10%	\$3,206	-1.29%	\$6,406	-1.38%
	256	4.0	\$404	\$804	-0.52%	\$1,604	-0.79%	\$3,204	-0.92%	\$6,404	-0.98%
Percentage Variation Between Highest and Lowest Cost per HH			3.29%	1.64%		0.82%		0.41%		0.20%	

Water and Sewer Bill Impact on Brookline Residents by Usage and Building Size

2014 Rates

	Number of Households on the Meter	Typical Meter Size	Cost per HH for 32 hcf per year	Cost per HH for 64 hcf per year (2x)	Percent cost per HH is not double	Cost per HH for 128 hcf per year (4x)	Percent cost per HH is not quadruple	Cost per HH for 265 hcf per year (8x)	Percent cost per HH is not eight times	Cost per HH for 512 hcf per year (16x)	Percent cost per HH is not sixteen times
HCF / yr usage			32	64		128		256		512	
	1	.625	\$402	\$810	0.72%	\$1,626	1.07%	\$3,258	1.25%	\$6,522	1.33%
	2	.625	\$405	\$813	0.36%	\$1,629	0.53%	\$3,261	0.62%	\$6,525	0.67%
	4	.625	\$407	\$815	0.18%	\$1,631	0.27%	\$3,263	0.31%	\$6,527	0.33%
	8	.75	\$412	\$820	-0.52%	\$1,636	-0.78%	\$3,268	-0.92%	\$6,532	-0.98%
	16	1.0	\$415	\$823	-0.87%	\$1,639	-1.31%	\$3,271	-1.53%	\$6,535	-1.64%
	32	1.5	\$417	\$825	-1.04%	\$1,641	-1.57%	\$3,273	-1.83%	\$6,537	-1.97%
	64	2.0	\$415	\$823	-0.82%	\$1,639	-1.24%	\$3,271	-1.45%	\$6,535	-1.56%
	128	3.0	\$414	\$822	-0.72%	\$1,638	-1.08%	\$3,270	-1.26%	\$6,534	-1.35%
	256	4.0	\$412	\$820	-0.51%	\$1,636	-0.77%	\$3,268	-0.90%	\$6,532	-0.96%
Percentage Variation Between Highest and Lowest Cost per HH			3.57%	1.77%		0.88%		0.44%		0.22%	

Water and Sewer Bill Impact on Brookline Residents by Usage and Building Size											
2015 Rates											
	Number of Households on the Meter	Typical Meter Size	Cost per HH for 32 hcf per year	Cost per HH for 64 hcf per year (2x)	Percent cost per HH is not double	Cost per HH for 128 hcf per year (4x)	Percent cost per HH is not quadruple	Cost per HH for 265 hcf per year (8x)	Percent cost per HH is not eight times	Cost per HH for 512 hcf per year (16x)	Percent cost per HH is not sixteen times
HCF / yr usage			32	64		128		256		512	
	1	.625	\$406	\$818	0.88%	\$1,644	1.31%	\$3,295	1.53%	\$6,598	1.64%
	2	.625	\$409	\$822	0.44%	\$1,648	0.66%	\$3,299	0.76%	\$6,601	0.82%
	4	.625	\$411	\$824	0.22%	\$1,649	0.33%	\$3,301	0.38%	\$6,603	0.41%
	8	.75	\$417	\$830	-0.49%	\$1,655	-0.74%	\$3,307	-0.87%	\$6,609	-0.93%
	16	1.0	\$420	\$833	-0.85%	\$1,658	-1.28%	\$3,309	-1.49%	\$6,612	-1.60%
	32	1.5	\$421	\$834	-1.02%	\$1,660	-1.54%	\$3,311	-1.80%	\$6,613	-1.93%
	64	2.0	\$420	\$832	-0.81%	\$1,658	-1.22%	\$3,309	-1.43%	\$6,612	-1.53%
	128	3.0	\$419	\$831	-0.71%	\$1,657	-1.06%	\$3,308	-1.24%	\$6,611	-1.33%
	256	4.0	\$417	\$830	-0.51%	\$1,655	-0.76%	\$3,307	-0.89%	\$6,609	-0.95%
Percentage Variation Between Highest and Lowest Cost per HH			3.88%	1.92%		0.96%		0.48%		0.24%	

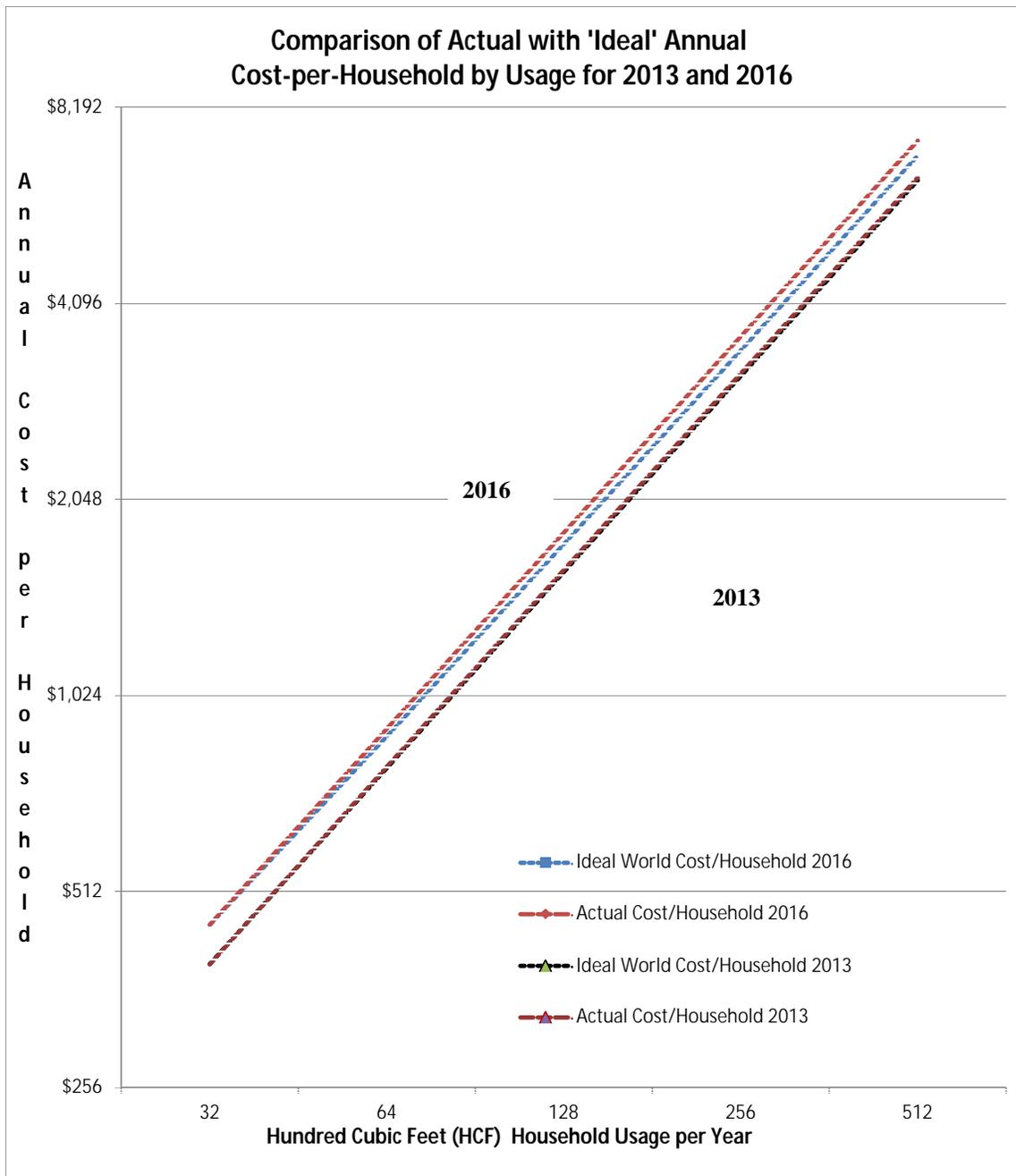
Water and Sewer Bill Impact on Brookline Residents by Usage and Building Size											
2016 Rates											
	Number of Households on the Meter	Typical Meter Size	Cost per HH for 32 hcf per year	Cost per HH for 64 hcf per year (2x)	Percent cost per HH is not double	Cost per HH for 128 hcf per year (4x)	Percent cost per HH is not quadruple	Cost per HH for 265 hcf per year (8x)	Percent cost per HH is not eight times	Cost per HH for 512 hcf per year (16x)	Percent cost per HH is not sixteen times
HCF / yr usage			32	64		128		256		512	
	1	.625	\$455	\$885	-2.76%	\$1,746	-4.19%	\$3,468	-4.93%	\$6,911	-5.30%
	2	.625	\$443	\$873	-1.40%	\$1,734	-2.11%	\$3,455	-2.47%	\$6,899	-2.65%
	4	.625	\$437	\$867	-0.70%	\$1,728	-1.06%	\$3,449	-1.24%	\$6,893	-1.33%
	8	.75	\$438	\$869	-0.93%	\$1,730	-1.40%	\$3,451	-1.63%	\$6,894	-1.75%
	16	1.0	\$439	\$870	-1.04%	\$1,731	-1.56%	\$3,452	-1.83%	\$6,895	-1.96%
	32	1.5	\$440	\$870	-1.09%	\$1,731	-1.65%	\$3,453	-1.93%	\$6,896	-2.07%
	64	2.0	\$438	\$868	-0.84%	\$1,729	-1.26%	\$3,450	-1.47%	\$6,894	-1.58%
	128	3.0	\$437	\$867	-0.71%	\$1,728	-1.06%	\$3,449	-1.24%	\$6,893	-1.33%
	256	4.0	\$435	\$865	-0.50%	\$1,726	-0.75%	\$3,448	-0.88%	\$6,891	-0.94%
Percentage Variation Between Highest and Lowest Cost per HH			4.62%	2.32%		1.16%		0.58%		0.29%	

The difference between the lowest and highest household cost for the lowest usage category compared by the number of units grows from 3.29% in 2013 to 4.62% in 2016. The deviance

between the lowest usage and the highest usage category for single family houses changes from 1.03% in 2013 to an upside down incentive of -5.30% in 2016.

The line chart below illustrates these differences in a graphical format. The lines for 2013 are so close that they seem to be the same line because the differences are so small. For 2016, on the other hand, the lines for actual and ideal are gradually separating as usage increases. This is an indication of small but growing inequity between the ideal and actual expenses for households. (Here we are defining the ideal world to be that when usage doubles, the bill should double.) However using the current rate structure, each year, this is less and less the case due to the mathematics of the structure.

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**ARTICLE 10**

Submitted by: Richard Nangle and Irene Schraf

Seasonal and noise level restrictions were placed on the inappropriate use of leaf blowers by Town Meeting in November 2008, yet landscape companies, maintenance companies, and others have continued to use leaf blowers where unnecessary. The continued use of leaf blowers remains a nuisance and disturbance to residents of Brookline. Further, the enforcement of the current restrictions on the use of leaf blowers creates an undue burden upon the Brookline Police and unnecessary expense to the Town. People have lived for millennia, until about twenty five

(25) years ago, without needing leaf blowers to survive); leaf blowers cause unnecessary pollution, dust, waste of fossil fuel, and carbon emissions in a time when we need to reduce carbon emissions to arrest climate change.

### **ARTICLE 11**

Submitted by: Faith Michaels and Peter Gately

This article would alter the dates that gas powered leaf blowers would be able to be used so that it would reflect similar regulations in neighboring towns.

It would expand the time when blowers are permissible by one month in the spring and by two weeks in December. Aligning dates with nearby communities will help landscape companies to comply with the regulations. The late spring of 2015 made it particularly difficult to do clean ups since there was so much destruction and snow on the ground.

The cutoff date of March 15th was very difficult on the local landscape industry. The use of leafblowers will also reduce the labor costs to homeowners as broom cleanups are time consuming and costly. This article would also give the Commissioner of Public Works the discretion to lift the ban in the event of a damaging storm such as the recent ice storm in August which left a great deal of leaves and branches on the ground.

### **ARTICLE 12**

Submitted by: Lee Selwyn

In November 2002, Town Meeting amended §5.22 of the Zoning Bylaw to allow homeowners who had received a certificate of occupancy pre-dating the adoption of the amendment the ability to increase the Floor Area Ratio (“FAR”) of the building by up to an additional 50% by finishing out existing basement and attic spaces. A stated objective of the amendment was “[t]o be an incentive to retain existing structures that fit the scale of the neighborhood and minimize the demolition of existing homes and the building of new larger homes that are out-of-scale with the neighborhood.”<sup>1</sup> Subsequent to the adoption of the November 2002 amendment, the Massachusetts Attorney General required the Town to delete the phrase “erected and configured prior to the adoption of this section” because, according to the Attorney General, it had the effect of treating homes built prior to 2002 differently from those built after 2002.

In May 2005, a second amendment to §5.22 was adopted by Town Meeting specifically to address the effect of the AG’s ruling. Under the May 2005 amendment, the conversion of space for habitable use could be done as-of-right but only after ten years had elapsed since the issuance of the original Certificate of Occupancy. As the Advisory Committee’s Recommendation on that Article had noted,

... what has resulted from the AG’s editing of the original article is that there is now an enormous loophole in Brookline’s zoning by-law. Developers can and are building homes that are ready for build outs. The petitioner referred to this as a ‘McMansion’ loophole. The petitioner by submitting this article is trying to prohibit builders from building oversized buildings and then immediately

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<sup>1</sup> November 12, 2002 Special Town Meeting, Article 10 – Planning Board Recommendation on Warrant Article 10, Combined Report, at p. 10-5.

converting the attics and basements to habitable space. It is thought that if this additional attic or basement space has to be left vacant for ten years, it will be a disincentive to overbuild additional space.<sup>2</sup>

The specific intent of the 2002 and 2005 amendments was to prevent “the building of new larger homes that are out-of-scale with the neighborhood” and to prevent developers from building homes that are ready for build outs.

Unfortunately, the 2005 amendment has failed to close the “McMansion loophole” or otherwise achieve its stated goals of preventing “the building of new larger homes that are out-of-scale with the neighborhood” and of preventing developers from building homes that are ready for build outs. The expectation, as stated by the Advisory Committee, “that if this additional attic or basement space has to be left vacant for ten years, it will be a disincentive to overbuild additional space” has proven to have been unduly optimistic. Developers are obtaining building permits for houses that contain large areas of purportedly “uninhabitable space” – much like the situation that existed prior to the 2005 amendment – except that these areas are being designed and intended for conversion to “habitable space” after the lapse of ten years, or potentially sooner if the owner proceeds to finish out such space without first obtaining a building permit.

The issue of what constitutes “unfinished” vs. “uninhabitable” space has been the subject of recent litigation. One such case was ultimately decided by the Supreme Judicial Court, which upheld a Land Court ruling that had determined that “unfinished space” is not necessarily to be considered “uninhabitable.” In the *71 Spooner Road* case, the Land Court addressed the matter of “unfinished spaces” in attics and what gets included in Gross Floor Area:

The developer [argues] that the bylaw should be declared invalid because the Town is imposing limits on construction, and, in some cases, those limits may apply solely to the character or use of interior space. For example, they contend that under the bylaw, two identical single family residential structures could be proposed for the same lot, yet, depending solely upon the character and use of the interior space, one could be constructed as of right while the other would exceed the FAR for the zoning district. To determine the nature of the interior space, it may become necessary to debate whether certain uses of the attic or basement would violate the zoning law, a debate that they contend is outside the scope of the town's authority under G.L. c. 41A, § 3. They claim that in the present action, the ZBA halted construction of the single family home on 71 Spooner Road based on nothing more than the homeowner's possible use of the attic as a livable area, as opposed to a “true” attic. While the developer agrees that municipalities may lawfully control density, it does not agree that the town may regulate density based on interior considerations, and contends the town's actions were, therefore, unlawful. ...

I agree with the Town, that the FAR limitations included in the bylaw ... are intended to regulate the exterior of structures. Any affect the FAR limits have on

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<sup>2</sup> May 24, 2005 Town Meeting, Article 11 – Advisory Committee Recommendation on Article 11, Combined Report, at pp.11-5 – 11-6.

interior space in the building is purely incidental to the primary purpose of regulating the bulk of the building, a legitimate interest of the town. A close look at the bylaw reveals that the FAR provisions do not actually regulate or restrict the interior of the house at all; in fact, GFA is calculated based on the exterior of the house, and specifically upon the number of stories excluding basement and attic levels.

In this case, the ZBA determined that the attic area of the proposed construction at 71 Spooner Road was, in fact, not an attic, and was actually habitable space. Habitable space is measured based on the exterior faces of the walls and is counted without any concern for the use of that space inside the structure. The disputed so-called “attic” was located on the second floor of the house, the main factor in the ZBA's determination. Because the area was originally identified as an attic by the developer, it was not included in the original GFA calculations on which the building permit was based. Once the building commissioner determined that the so-called attic space should be included in the calculation, the house as it was proposed was going to be over 1000 square feet too large for the lot size, and for that reason alone the building permit was rescinded.<sup>3</sup>

On appeal, the Mass. Appellate Court was even more explicit as to what constitutes “habitable space” for purposes of calculating Gross Floor Area:

Drawing from the bylaw definitions of “attic” and “habitable space” and related FAR provisions, its study of building plans filed with the town, and its inspection of the partially-built 71 Spooner Road dwelling, the board concluded LLC had designed and built the unfinished second-floor space with the intention of using it as living quarters. What was “readily apparent” to the board members, who heard this matter, was that the disputed space was not only “accessible” by a stairwell that provided code compliant access to other space on the home's second floor, but also that the disputed space had more than the minimum ceiling height to be suitable for human occupancy. The board thus found the disputed unfinished second-floor space was not an exempt “attic” as defined by § 2.01(3) of the bylaw. The judge determined that the board's interpretation of the bylaw was reasonable and entitled to deference. The judge also shared the board's conclusion that the disputed unfinished space at 71 Spooner Road was not an “attic” as defined by the bylaw and, as such, was required to be included in the gross floor area enumeration for that structure. We agree.<sup>4</sup>

The Appellate Court also weighed in on the purpose of FAR – to regulate the “bulk” of a building and its effect upon the “density” of development:

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<sup>3</sup> *81 Spooner Road, LLC v. Town of Brookline*, Mass. Land Ct. Misc. Case No. 315944 (CWT), *Decision Denying Developer Spooner Road, LLC's Motion for Summary Judgment and Allowing the Town of Brookline's Cross Motion for Summary Judgment*, Aug. 29, 2007, *slip. op.* at 8-11.

<sup>4</sup> *81 Spooner Road, LLC v. Zoning Board of Appeals of Brookline and others*, 78 Mass. App. Ct. 233, 244-246, notes and citations omitted, emphasis supplied.

A floor area ratio measures the gross floor space of a building in comparison to the area of its underlying lot. *Woods v. Newton*, 351 Mass. 98 , 102 (1966) (purpose or “essential scheme” of FAR ordinance is to maintain a certain ratio between lot area and bulk size of a structure on said lot); *81 Spooner Rd. LLC v. Brookline*, 452 Mass. 109 , 115 (2008) (regulating a building’s “bulk,” by way of floor area ratio, “is a generally recognized and accepted principle of zoning”). In this way, the bylaw’s FAR requirement protects against undue building density, and promotes the bylaw’s overarching policy to advance the health, safety, and welfare of the town’s residents. To that end, the bylaw, among other things, seeks to foster the most appropriate use of land, prevent overcrowding of land, and encourage the preservation of historic and architecturally significant structures.<sup>5</sup>

While one might think that the *Spooner Road* ruling would have settled the point that “unfinished space” is not necessarily “uninhabitable space,” developers continue to argue, in several recent cases to come before the ZBA and the Brookline Preservation Commission, that “unfinished” and “uninhabitable” are to be afforded the same meaning – i.e., as long as a space is “unfinished,” it is to be excluded from Gross Floor Area when determining the building’s compliance with applicable Floor Area Ratio (“FAR”) requirements. The purpose of the proposed amendment to Article II, Section 2.08, Paragraph 1 (Definition of “Habitable Space”) is to provide additional guidelines for the Building Department and the ZBA, so as to limit spaces that truly qualify as “uninhabitable” and excludable from GFA, and to assure that such spaces are not being designed so as to be “ready for build outs” upon completion of the ten-year waiting period.

Several examples can be cited to illustrate the effect of the current “McMansion loophole.” The following recent Zillow listings confirm that developers do not even attempt to conceal the excessive GFA of their offerings:

85 Dean Rd

Advertised at 4,280 sq. ft. on a 7,405 sq. ft. lot, S-7 zone (.35 FAR).

Maximum GFA would be 2,592 sq. ft.

[http://www.zillow.com/homedetails/85-Dean-Rd-Brookline-MA-02445/56569879\\_zpid/](http://www.zillow.com/homedetails/85-Dean-Rd-Brookline-MA-02445/56569879_zpid/)

33 Taylor Crossway

Advertised at 6,165 sq. ft. on a 10,454 sq. ft. lot, S-10 zone (.30 FAR).

Maximum GFA would be 3,136 sq. ft.

[http://www.zillow.com/homedetails/33-Taylor-Crossway-Brookline-MA-02445/2107355381\\_zpid/](http://www.zillow.com/homedetails/33-Taylor-Crossway-Brookline-MA-02445/2107355381_zpid/)

57 Cleveland Road

Advertised at 4950 sq. ft. on a 14,938 sq. ft. lot, S-10 zone (.30 FAR).

Maximum GFA would be 4,481 sq. ft.

[http://www.zillow.com/homedetails/57-Cleveland-Rd-Chestnut-Hill-MA-02467/56570304\\_zpid/](http://www.zillow.com/homedetails/57-Cleveland-Rd-Chestnut-Hill-MA-02467/56570304_zpid/)

232 Woodland Rd

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<sup>5</sup> *Id.*, at 235-6, notes omitted.

Advertised at 8,174 sq ft on a 19,876 sq ft. lot, S-15 zone (.25 FAR).  
Maximum GFA would be 4,969 sq. ft.

[http://www.zillow.com/homes/for\\_sale/Brookline-MA/pmf.pt/house\\_type/56573663\\_zpid/17188\\_rid/42.368564,-71.066008,42.27769,-71.218786\\_rect/12\\_zm/](http://www.zillow.com/homes/for_sale/Brookline-MA/pmf.pt/house_type/56573663_zpid/17188_rid/42.368564,-71.066008,42.27769,-71.218786_rect/12_zm/)

Brookline is a built-out community with a high quality and well-maintained housing stock that was developed within the current FAR framework. Developers are buying up properties, demolishing FAR-compliant houses, and constructing new ones that effectively reinterpret FAR as being 50% greater than that shown in the by-law. Thus, a FAR of 0.30 is being interpreted by developers as 0.45, and large out-of-scale houses are being constructed. Brookline has a long history of taking affirmative steps to protect the character of its neighborhoods and preserve existing buildings and townscapes. This escalating replacement of our solidly-built established housing stock with often poorly constructed “developer houses” wastes resources, makes Brookline less affordable for young families, and threatens the character of our neighborhoods. The proposed amendment is intended to limit developers’ opportunities to “game” the existing zoning bylaw and, in so doing, will hopefully encourage the Building Department and the ZBA to critically assess and consider the developer’s true intent in the design of new or expanded houses that include large areas of purportedly “uninhabitable spaces.”

### **ARTICLE 13**

Submitted by: Board of Selectmen

In 1997, the Commonwealth of Massachusetts enacted deregulation of the utility industry. As part of that effort an option was created for municipalities to “aggregate” electricity use and negotiate electric supply on behalf of residents and small businesses currently on basic service. Community Choice Aggregation also allows a community to purchase energy with a higher renewable content than currently required by the Massachusetts Renewable Portfolio standard. A vote of Town Meeting is required for Brookline to move forward and design a plan for Community Choice Aggregation. This warrant article seeks to gain that approval in order to engage with a broker who will work with the Town to design and implement a program.

### **ARTICLE 14**

Submitted by: Carol Oldham and Thomas Vitolo

We all want to do the right thing about climate change - but there is so much information, it can be confusing and overwhelming. The good news is that the Town has a tool to clean up our electricity sources, to protect consumers, and to cut our climate change impacts, with one vote.

One major source of climate change-causing pollution is electricity generation – 21% of Brookline’s climate change causing pollution comes from making our electricity.<sup>6</sup> Moving to cleaner sources of electricity like solar, wind, and anaerobic digester gas (from manure, food waste, etc.) will result in a large reduction of our climate change causing air pollution. A Community Choice Aggregation plan for Brookline, structured as suggested in this resolution,

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<sup>6</sup> Article Explanation, Appendix A, Row 9

will bring our proportion of clean electricity generation to 50 percent, doubling the current generation mix.

### BROOKLINE'S EMISSIONS

Currently, emissions caused by Brookline residents come from

- heating our buildings (48%),
- personal vehicles (27%),
- solid waste (4%), and
- electricity use (21%).<sup>7</sup>

As a town and as a state, we are moving to increase the efficiency of our homes and buildings, to reduce our solid waste, and to make our transportation alternatives better. We have made significant gains and should continue to work towards reductions in emissions in those sectors, but our climate change impacts from our electricity use can be massively cut in one single action by Town Meeting and the Selectmen in passing a Community Choice Aggregation plan. Brookline can decrease the use of fossil fuels in generating its electricity by choosing to use renewable energy instead. This significant carbon emissions reduction doesn't require any change in our homes, our vehicles, or our behavior – it simply requires Community Choice Aggregation.

### CCA: COMMUNITY CHOICE AGGREGATION

The Massachusetts General Law called the “Electric Utility Restructuring Act” enacted in 1997 provides a mechanism for cities and towns to reduce their climate change-causing emissions: a town or city can decide to voluntarily increase its use of renewable electricity by making this the goal of its Community Choice Aggregation (CCA) plan.

### CCA IS VOLUNTARY

CCA is mandated by law to be a voluntary program for individuals, with an easy opt-out structure. If Brookline becomes a CCA community, individuals who do not wish to participate in Brookline's CCA can opt out via a simple procedure at any time, and at no cost. Those who opt out would continue to get or return to getting their electric energy from Brookline's current supplier, NSTAR Electric Company d/b/a Eversource.

### CCA IS SIMPLE

No new paperwork is required to join a community's CCA program. Customers will continue to pay just one bill per month, and that bill will continue to be mailed to customers by Eversource. The electricity will arrive at each participant's home using the same wires it uses today. The only change is from where the electricity comes - more from solar, wind, and anaerobic digester gas, less from the current mix of predominantly fossil fuels.

### USING CCA TO INCREASE RENEWABLE SOURCES OF ELECTRICITY MAKES SENSE FOR BROOKLINE

The current electricity mix that serves Brookline customers is approximately 25 percent renewable: small and large hydro, wind, solar, biomass, and methane fueled electric generation. The remaining 75 percent comes from natural gas, coal, oil, and nuclear power. For an extra \$7

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<sup>7</sup> Article Explanation, Appendix A, Rows 9 – 12

per month, Brookline could replace 1/3 of that fossil and nuclear power with additional electricity from wind, solar, and anaerobic digester gas, and as a result half of Brookline's electricity would then come from renewable resources.

### CCA PROVIDES CONSUMER PROTECTION

Electricity customers are being bombarded with advertisements about signing up for many different programs to help stop climate change. Some of these claims are legitimate and helpful, while others are legitimate but less helpful, and some are simply misleading. This situation is confusing for customers. The CCA approach proposed for this resolution will provide Brookline residents with consumer protection in two ways. Firstly, the CCA allows for the development of a legitimate plan that lowers Brookline resident's carbon footprint in a cost effective manner. Secondly, the plan will ensure that customers can opt out at any time, for any reason, at no cost. Both the Massachusetts Attorney General's office and the Department of Public Utilities scrutinize each proposed CCA plan to ensure that it is well designed to achieve its described goals and to ensure that the opt-out provisions comply with state requirements.

### CCA MAXIMIZES CARBON REDUCTIONS

Community Choice Aggregation is a remarkably powerful tool. For an optional small increase in the monthly electricity bill, every Brookline resident can ensure fully half of his or her electricity comes from renewable resources. No contractors required. No long term commitments. No regrets. Brookline would reduce carbon emissions by 8 percent of the town's total emissions, overnight.<sup>8</sup> There's no other action the Selectmen or Town Meeting can take that can result in carbon emissions reductions of that magnitude.

### THE CLIMATE CRISIS AND BROOKLINE

Climate change has already warmed the climate by about 1 degree Celsius. Glaciers are melting, threatening the loss of drinking water for millions of people. Mosquitoes are spreading to new territory, bringing with them malaria and dengue fever. Sea levels have begun to rise, and their continued rise will threaten both island nations and port cities, Boston included.

Brookline has showed significant leadership on local climate action. This town meeting has passed warrant articles and resolutions tackling various aspects of the climate crisis, we have a robust climate plan, and our selectmen and our selectmen's climate action committee are always looking at ways to be better on climate change.

The science is settled - the carbon emissions released by burning fossil fuels is what is causing climate change. The need is clear - we must reduce the quantity of fossil fuels that we use as individuals, communities, and nations. There is, simply put, no other way to reverse, stop, or even slow down climate change.

### THE CHALLENGE

It is clear, serious steps must be taken immediately to reduce greenhouse gas emissions at all levels - from the individual, to households, to communities, to states, to countries. Emissions reductions must come from all three principal sectors: home heating, transportation, and electric generation.

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<sup>8</sup> Article Explanation, Appendix A, Row 16

Passing community choice aggregation, and setting up the program so that it focuses on increasing our use of clean energy, is a major step Brookline can take. We can stand with other towns that are passing similar plans, and together we can all move towards a clean energy future.

APPENDIX A

Row	Value	Unit	Description
1	730	lbs CO <sub>2</sub> /MWh	Average electric generation CO <sub>2</sub> intensity of ISO New England
2	275,625	MWh	Total annual Brookline electric consumption
3	100,603	short tons CO <sub>2</sub> e	Brookline annual electric GHG emissions
4	230,321	short tons CO <sub>2</sub> e	Brookline annual heating related GHG emissions
5	128,992	short tons CO <sub>2</sub> e	Brookline annual motor vehicle GHG emissions
6	21,264	short tons CO <sub>2</sub> e	Brookline annual solid waste GHG emissions
7	380,577	short tons CO <sub>2</sub> e	Brookline annual non-electric GHG emissions
8	481,180	short tons CO <sub>2</sub> e	Brookline annual GHG emissions
9	21	percent	Brookline electric GHG emissions
10	48	percent	Brookline heating related GHG emissions
11	27	percent	Brookline motor vehicle GHG emissions
12	4	percent	Brookline solid waste GHG emissions
13	1,125	lbs CO <sub>2</sub> /MWh	Marginal electric generation CO <sub>2</sub> intensity of ISO New England
14	25	percent	Incremental renewables proposed in resolution
15	38,760	short tons CO <sub>2</sub> e	Brookline annual GHG emissions reduction due to CCA plan described above, assuming 100% participation
16	8	percent	Brookline GHG emissions reduction due to CCA plan described above, assuming 100% participation

Row	Source
1	"2013 ISO New England Electric Generator Air Emissions Report," page 2. <a href="http://www.iso-ne.com/static-assets/documents/2014/12/2013_emissions_report_final.pdf">http://www.iso-ne.com/static-assets/documents/2014/12/2013_emissions_report_final.pdf</a>
2	NSTAR, courtesy of CAC member Alan Leviton, via direct communication.
3	(Row 1 x Row 2) / 2000
4	"Selectmen's Climate Action Committee Report To Town Meeting Fall 2013," page 11. <a href="http://www.brooklinema.gov/DocumentCenter/View/3891">http://www.brooklinema.gov/DocumentCenter/View/3891</a>
5	"Selectmen's Climate Action Committee Report To Town Meeting Fall 2013," page 11. <a href="http://www.brooklinema.gov/DocumentCenter/View/3891">http://www.brooklinema.gov/DocumentCenter/View/3891</a>
6	"Selectmen's Climate Action Committee Report To Town Meeting Fall 2013," page 11. <a href="http://www.brooklinema.gov/DocumentCenter/View/3891">http://www.brooklinema.gov/DocumentCenter/View/3891</a>
7	Row 4 + Row 5 + Row 6
8	Row 3 + Row 4 + Row 5 + Row 6
9	Row 3 / Row 8
10	Row 4 / Row 8
11	Row 5 / Row 8
12	Row 6 / Row 8
13	"2013 ISO New England Electric Generator Air Emissions Report," table 1-3. <a href="http://www.iso-ne.com/static-assets/documents/2014/12/2013_emissions_report_final.pdf">http://www.iso-ne.com/static-assets/documents/2014/12/2013_emissions_report_final.pdf</a>
14	A Resolution to Urge the Board of Selectmen to Increase the Use of Electricity from Renewable Sources of Energy Using A Community Choice Aggregation Plan, Brookline Town Meeting, Fall 2015
15	((Row 14 x Row 2) x Row 13) / 2000
16	Row 15 / Row 8

### **ARTICLE 15**

Submitted by: Regina Frawley, TMM16

Town Meeting overwhelmingly and generously voted to support a study of the possible "taking" by Eminent Domain, of the two green buffer strips behind Russett and Beverly Roads for a "publicly accessible recreation space, compassionately with the fact that Precinct 16 remains the only precinct in Brookline without "walkability" to such recreation space within town.

It was assumed, based on past practice historically, that a “citizens’ committee” would be established by the Board of Selectmen” to study the matter. However, both the Selectmen and Town Administrator decided not to establish such a committee, pointing out to the Petitioner that Resolution Article 18 did not “specify” that a citizens’ committee be established instead voted to use only staff for the bulk of the work and to hire consultant(s), as needed, to report to them only. Strangely, despite cautioning from the Petitioner, the Selectmen appointed a new Selectman who had just made public her opposition to Ch. 40B, the kind of housing desired by the owners of Hancock Village, running the risk of having their lawyers charge bias in court should an Eminent Domain taking be recommended.

Caution aside, in July the BOS asked the Advisory Committee to transfer \$15,000 to hire an attorney to advise on Eminent Domain. The Advisory Committee declined, and suggested that Town Counsel’s budget had \$80,000 available, some of which could be used to hire the consultant. Town Counsel could come back at another time if necessary.

Besides the outside legal expert on Eminent Domain, the Town Administrator recommended that all work be done “in-house”, possibly presenting findings for this Town Meeting. But, there has been no reports of any activity, and if there has been by Town Meeting, it is presumed to be the work product of Town staff, some of whom are involved in—and possibly compromised by-- the two legal actions involving the same land discussed for this Town Meeting.

Initially, it was disappointing that the Town Administrator wrote that to establish a “citizens’ committee” asking them to hold confidential information from public knowledge lest it would impair negotiations on, for example, the value of property, etc., would, in his opinion prove “challenging”. He did not think Executive Sessions a sufficient defense against information leakage. The Petitioner, herself under lifetime federal oath not to reveal certain information, disagreed and had faith that many others also could hold confidential information secret. It would of course depend on who the appointees were/are. It always does.

The Petitioner soon came to see a “blessing in disguise” and “lemonade” from lemons opportunity. The concept of creating an ad hoc Blue Ribbon Committee of Town citizens, a practice used across the country at every level of government, in this case tasked to study the substance of Article 18 seemed the only means of avoiding potentially successful legal challenges of “conflict of interest”. The Committee must be independent of any influence, political, personal, economic, etc., some of whom might have disciplinary skills (finance, real estate, bond issuance, etc.) but would include “ordinary” citizens with good repute and known research skills, for example.

With this action, both the two law cases now existing involving the Town would be sheltered from legal claims alleging the Selectmen are using this Article (along with May’s Article 18) as yet another means of achieving the same ends. However, the BOS cases are very different substantively from the Eminent Domain issue, which is exclusively limited to the feasibility—or lack thereof—of using the land to create a publicly-accessible recreation space(s).

This article has no relationship whatsoever to housing of any kind, whether “affordable” or single-family, etc. It has only to do with publicly accessible recreation and park space(s), and remains the only possible opportunity in Precinct 16 to have such “walkable” space. It is literally a “chance of a lifetime” and, if missed, will deny forever any other opportunity for such open space. It is long past the time for South Brookline’s children, families and elders to be granted the joys and pleasures—and community-creating spaces—that are available to every other area of town. As the Petitioner presented in May, it is a question of equity and fairness. It remains so. A Town- citizen “Blue Ribbon Committee” can begin the discernment as to whether this could, or even should, be done.

Or act on anything thereto.

#### **ARTICLE 16**

Submitted by: Frank I. Smizik and Lisa Guisbond , et al

This Resolution, if adopted, would put Brookline on record opposing current state and federal policies that require the use of standardized testing for high-stakes purposes, such as, high school graduation, educator evaluation and school and district performance. This Resolution would call for a state and federal moratorium on high-stakes use of standardized tests to allow for the development of assessment systems that help educators teach and students learn. (See, Whereas Clauses)

#### **ARTICLE 17**

Submitted by: Craig Bolon, TMM8

The November 18, 2014, Brookline town meeting was asked for a resolution against a gas pipeline proposed across northern Massachusetts. However, the resolution adopted did not ask state and federal agencies to deny pipeline permits and could not have anticipated financial participation in a pipeline project by regional electricity distributors. The spirit of the 2014 resolution has only gained merit with adverse developments since an article was drafted in summer, 2014.

There were four gas pipeline projects being proposed through Massachusetts. They have not only potentials for environmental damage but also potentials to inflict deep and lasting financial harm on the state. This spring, Maura Healey, elected as Massachusetts attorney general in fall, 2014, urged caution on the state's Department of Public Utilities. Her office has underway a comprehensive study of energy options, to be completed by October, 2015. Gas pipeline issues are explored and documented in a local news article:

Craig Bolon, New England gas pipelines: need versus greed

Brookline Beacon, August 29, 2015

<http://brooklinebeacon.com/2015/08/29/new-england-gas-pipelines-need-versus-greed/>

The two largest New England pipeline projects are Northeast Direct, proposed by the Tennessee Gas Pipeline division of Kinder Morgan, and Access Northeast, proposed by the Algonquin Gas Pipeline division of Spectra Energy. Two smaller proposals also come from Algonquin. Both parent companies are located in Houston, TX. Final applications to the Federal Energy Regulatory Commission (FERC) are expected for the big proposals in

October, 2015. Docket numbers will become available and submission of comments will become timely.

Northeast Direct would be a new pipeline on virgin territory with capacity up to 2.2 billion cubic feet per day (Bcf/d), routed across northern Massachusetts and southern New Hampshire. Access Northeast would be pipeline expansions with capacity up to 1.0 Bcf/d, mostly along the existing rights of way for the 1953 Algonquin pipeline across Connecticut, Rhode Island and eastern Massachusetts.

The combined proposals would double pipeline capacity into New England. There is no conceivable need for such an enormous flow of gas. Although loudly denied by both companies, their likely intents are to connect to pipelines extending into Canada and to send U.S. production there for export as liquefied natural gas. One terminal in Canada already has permits to export 0.8 Bcf/d, and another has applied for permits to export 0.75 Bcf/d. There is no reliable source for such large amounts of natural gas in eastern Canada.

An obvious result of such a scheme would be to couple marketing of U.S. natural gas in New England with international marketing and to jack up New England prices. However, that is not enough for the pipeline promoters. They also want New England utility customers to pay for their pipelines, although most of the proposed new capacity could not reasonably serve New England customers.

Since last year's warrant article, the two largest New England electricity distributors, Eversource (formerly NStar) and National Grid, have proposed to invest in 60 percent of the Access Northeast project. In particular, they have asked Massachusetts to include pipeline costs as factors in electricity rates.

Involvement in a long-distance gas pipeline is outside the charters of Eversource and National Grid. They are electricity distributors, not long-distance pipeline operators. They would encounter gross conflicts of interest, selling wholesale gas delivery to generating plants from which they buy wholesale electricity.

Massachusetts Assistant Attorney General Christina Belew of the Energy and Telecommunications Division called the proposed projects "an inefficient expense...units added would be minimally utilized." The Brookline town meeting should object to both the Access Northeast proposal and the Northeast Direct proposal--the latter called out in a warrant article in fall, 2014--and should object to financial participation by Massachusetts electricity distributors.

#### **ARTICLE 18**

Submitted by: MK Merelice, TMM6 and Ruthann Sneider, TMM6

When a private organization or public entity develops a program, one of its first responsibilities is to define the objective or goal of that program. Brookline seeks to bring more diversity into its workforce. This resolution would determine an achievable goal for the town's efforts, based on data gained from the Brookline Community Foundation's research on Brookline.

**ARTICLE 19**

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