

**Town of Brookline  
Advisory Committee Minutes**

**November 30, 2021**

**To access a recording of this meeting, click on the link below:**

<https://brooklinema.zoomgov.com/rec/share/TnMIBhOpmXgQlIXBHoyFK6JGvOUMBkGHE2OaLk2fMSG0lbaUekknb1qtUpaWgw3z.zpLHneOHIA0BcsMs>

Passcode: x+?yNK7!**Present:** Scott Ananian, Carla Benka, Ben Birnbaum, Harry Bohrs, Clifford Brown, John Doggett, Dennis Doughty, Harry Friedman, David-Marc Goldstein, Neil Gordon, Susan Granoff, Kelly Hardebeck, Amy Hummel, Alisa Jonas, Janice Kahn, Steve Kanen, Carol Levin, Linda Olson Pehlke, Donelle O’Neal, David Pollak, Carlos Ridruejo, Michael Sandman, Lee Selwyn, Alok Somani, Paul Warren, Christine Westphal, Neil Wishinsky, Chi Chi Wu

**Absent:** George Cole, Pam Lodish

**Also Attending:** Various members of the public.

The meeting was called to order at 6:00 PM.

**Announcements:** Pursuant to this Board’s Authority under 940 CMR 29.10 (8), all Advisory Committee Members will be participating remotely via telephone or video conferencing due to emergency regulations regarding the Corona virus. The Chair has reviewed the requirements of the regulations. There is a quorum physically present and all votes taken will be recorded by roll call so all above listed Advisory Committee members will be allowed to vote.

**6:00 pm            Public Comment** – There were no public comments.

**6:15 pm            Discussion and possible vote on TMM Pct. 13 Lee Selwyn’s amendment to Article 10: Legislation to authorize the Town to hold Hybrid Town Meetings (Select Board)**

Lee Selwyn introduced the two amendments he is offering to WA 10 and gave a bit of background as to the impetus for them. We cannot allow a technology limitation to suppress votes. Proposed two amendments to WA 10 – The first of which is the one you have before you, which basically would require that the same provision that exists in the Town Meeting Handbook, that all votes displayed during the votes and available on the screen, be made available in real time to anyone participating remotely. That would then give them the ability to know whether or not the vote was recorded correctly and to deal with it before the town meeting, the solution.

The second part, the second amendment is a proposal that was actually suggested to me by Stanley Spiegel, the resident parliamentarian, which is not to dissolve Town Meeting until an opportunity has been provided for people to review the voting record and make corrections. We need to have a voting platform to be reliable and will allow

people to review their votes (just as in in-person Town Meetings). My amendment would require that before any remote participation this capability be provided and people are assured that their votes will be counted.

## QUESTIONS AND COMMENTS

**Comment:** The Chair noted that there is a committee that has been formed to look at what the process would be for managing a hybrid meeting and, in addition to the Lexington voting software, the Town is looking for alternative applications. In some cases they run off of a Smartphone so that you don't need to have a separate handheld device or have two separate tallies running - one in the high school and one for remote participants. That's obviously not resolved yet but we're still looking at the potential.

**Comment:** Agree with this in principle but have to object to the actual wording proposed here, and this is one of those things where if this were done earlier, we could probably spend a lot of time fiddling with the language so that you would get something that both you and I would be happy with but I don't know if there's time here.

The choice by Sandy for the first virtual meeting was made especially keeping in mind the sort of non tech savvy of Town Meeting members and in his criteria at the time was that it had to be one program to do both the video conferencing, and the voting so that you didn't have people who get on one and not the other. His choice was made specifically to enfranchise people to ensure that everyone was on a level playing field and could vote now.

I think the Moderator is paying attention to this and if this were a resolution I would wholeheartedly endorse it, but as a bylaw with very specific requirements, I think it constrains rather than enables us if there's a great solution that falls just short of it.

The specific you know panel layouts and other things that are in this amendment we wouldn't be able to adopt it, even if it would be an improvement to what we've got.

The issue with correcting votes after the close of Town Meeting is indeed one that we've discussed, you know there are a number of procedural mechanisms, we could use so that we have time to review the votes.

**Question:** Dennis - I know the moderator ruled your "not closing the meeting" suggestion out of scope but it seems like there's no question that, when the Moderator calls for a motion to dissolve this the Town Meeting that someone can make a motion to dissolve the Town Meeting subject to the conditions that you specified. Is that correct? **A:** I don't know. I actually am planning to raise a point of order when the motion to dissolve is offered and we'll see what she does.

**Question:** Kelly – Will Moderator's Committee on this be reporting back to Town Meeting? **A:** Mike Sandman, a member of the Committee, replied: I don't know that anybody is planning a specific report. For my part I'm quite determined that we have to find a solution to the voting, to be making voting available in real time. The reason that it was decided not to do it in June of 2020 was that we were at that point, like most people, not familiar with Zoom. We then went to the Lexington Town Meeting and it went pretty well. It took about 45 minutes to get started, no technical problems, and once they got it going, it did seem to work pretty well. So there's no particular reason why we can't solve this and certainly a report will be in order.

**Comment:** Harry F – Hope the new technology would also allow folks to switch their votes. Regarding objections to adding this to the bylaw, it is a home rule petition and would allow the legislature to put it in or not.

**Question:** Susan G – Did anyone check with IT Department as to what is feasible? A: Said it wasn't feasible. Gave some push back but are also on the Committee and providing programs and ideas we should be looking at.

**Comment:** Susan G – I share Lee's concerns but am also committed to making remote participation an option for all of our meetings. Worry that would be jeopardized if some of the stringent requirements in this proposal aren't met. We may need more time to get the technology adjusted and corrected. Will not vote in favor unless more wiggle room. No middle ground.

**Lee responded to some earlier comments and questions.**

With respect to this language, the language that is in the amendment is word for word from the Town Meeting Handbook page 29. I didn't make it up. That language has never been officially suspended even during the existing remote meetings; it's simply not being adhered to.

With respect to the issue of things that are bylaw, you have language in the Town Meeting Handbook, that is being essentially de facto ignored during the remote town meetings; the other provision that's also in the handbook is this issue about suspension, shutting the door to any changes. We have to accommodate remote meetings as best we can. The simpler solution which could be easily implemented by next May would be to not dissolve Town Meeting until an opportunity is afforded to Members to check their votes. Unfortunately, that's not here now, so the only thing is simply my taking the language, word for word from the Town Meeting Handbook and putting that in as a requirement for remote meetings because it apparently is a requirement for in-person meetings and has been since we adopted the handheld voting devices five to six years ago.

Rep Vitolo told Lee that there is almost not a snowball's chance that this would be enacted by the State Legislature in time for the annual Town Meeting for a couple of reasons, one of which is the legislation doesn't move that quickly and, second, he feels this is not going to be accepted as a proper Home Rule petition because it's not unique to Brookline and that, if the legislature wants to get into the issue of hybrid town meetings, they would do it generally and not on a town by town basis. It is unrealistic to expect that anything's going to happen in time for next day anyway and what really needs to happen is that we need to give people the assurance that their votes count.

**Comment:** Janice K - Town Meeting never voted on the handbook. Can we ask that this be done post-mortem and have it added to the handbook? A: Don't know what the Moderator will do.

**Comment:** Harry B – If as Tommy noted this doesn't have quote "a snowball's chance of getting through the legislature, I don't know if it's worth trying to take their time or increasing their exasperation with us to try and get it through especially if it's not going to serve us in the Spring. Maybe a better course is to work with our IT Department and hopefully, have a solution by then anyway; talk to the Moderator about not dissolving town meeting until things have been checked; and introducing a warrant article in the Spring, which is essentially amendment number two, which is right now considered out of scope.

**Comment:** Neil G - I think, with this particular amendment it sends a message to the legislature that the experience of being in Town Meeting in person and the experience of being in Town Meeting in a virtual fashion, should be, in fact, the same experience. You know the integrity of the vote is important here and I'm not sure that the ability to play from home versus play in the high school auditorium is as important as the integrity.

A MOTION was made and seconded to AMEND the previous vote on WA 10 to incorporate Lee Selwyn's amendment requiring that all votes be available, minus the portion specified by Scott. By a VOTE of 27-0-0, the amendment passes.

Paul Warren gave additional details about his proposed amendment.

A MOTION was made and seconded to AMEND the previous vote on WA 10 to include Paul Warren's amendment "All deliberations among voting members during a hybrid Town Meeting shall be visible to Town Meeting Members and the Public."

#### **DISCUSSION:**

Chi Chi Wu: There is nothing nefarious about group chat, Town Meeting ListServ (not public), caucuses and private chat groups – there several other types of gatherings of Town Meeting members, if the folks with different viewpoints, like Brookline by Design, don't have their own group chat, and they really should, it is simply about organizing. It's an American tradition. I am very opposed to this particular amendment. I think it would unduly restrict the ability of Town Meeting members to communicate. It would forbid people during Town Meeting to post to the Town Meeting listserv because that listserv is not open to the public. As a lawyer that's how I interpret the language. I would not be able to email or text a fellow Precinct 7 Town Meeting member if they responded. If there are 10 Town Meeting Members who are spouses in the same household this language will literally ban spouses who are both Town Meeting Members from talking to each other in the same household because it would ban deliberations that are available to all of Town Meeting and open to the public, so it's very restrictive, would have all sorts of unintended consequences that I really think is not well thought out and we shouldn't be doing this thing sort of so close to Town Meeting.

Ben Birnbaum: I'm sympathetic to Paul's concerns and as a former teacher in this era of everything online, I can assure you that, looking at a classroom and finding students talking to each other or to other people is disconcerting. It's not about 40 people online, though I understand that that sounds quite serious. You know just leaning over to talk with people, conversations in the hallway, this language would seem to shine a spotlight on that too, and I really think you know when we go back to the high school auditorium there is going to be a lot of conversations at the back of the room that get hushed by the Moderator and people leaning forward, leaning sideways and saying what do you think of this or that and offering their opinions. I think this is too large and this is too broad a solution.

Lee Selwyn: Paul your use of the word "deliberation" is probably not exactly accurate because I think what we're really talking about here is sort of organized strategy and tactics on the part of the participants in some of these groups. Group chats are a creature of the remote meeting; they insure you can always talk to people sitting right around you at a Town Meeting, but these things are far more organized. I don't know that there's a solution to it. I am going to support Paul's amendment but, quite frankly, I have my doubts as to how it can ever be really as a practical matter, enforced.

Scott Ananian: I've seen Town Meeting Members taking phone calls; I've seen folks walk out to the hall to take phone call or to talk to other Town Meeting Members; I've seen conversations in the coffee room. State law says Open Meeting Law does not apply the Town Meeting and that's for very good reason - Town Meeting Members are citizens of the Town. The State Court held that enforcing the Open Meeting Law in Town Meeting would be an infringement of their first amendment rights to communicate their political beliefs. I've been involved in groups whose primary

purpose is mentoring new Town Meeting members. We've done that in person as well. New Town Meeting members will sit together and whisper during Town Meeting "What vote is happening now? "If I wanted to vote for X, do I vote yes or no on this?" I think it is entirely appropriate for Town Meeting and I certainly don't think that all those whispered conversations should be broadcast live on BIG. I don't support this amendment.

Amy Hummel: I was really horrified to learn that Town Meeting Members are not bound by the Open Meeting Law like the Advisory Committee. This isn't like a precinct meeting to talk about and be informed about what an article is about, what people think of it, the pros and the cons, and deliberating amongst each other or on the TMMA List, which is open to everyone in Town Meeting. I don't know a person who can listen to two conversations at once and if this is happening while Town Meeting is going on, it means that those Town Meeting Members, if they're actually paying attention and if not, they're not doing their job. It's not just that they've stepped out to go to the bathroom or they've gone to get a coffee or that they're having a chat in the hall, which is fine, this is not the same thing. 40 people don't have a chat in the hall over the same thing. They are doing it while Town Meeting is going on. People have prepared speeches. We should be asking legal counsel for clarity; we should be asking department heads for clarity - they're missing that instead of strategizing. How can you even win if you're not fully informed and going in and listen to everybody? It is not the same as advocating, being an activist. That's okay. But it's the how and when. I'd add that aside from the fact that you can't pay attention to both, you, by definition, are buying into this level of groupthink that when we see it on the national level in the Republican Party we're all horrified. How we wondered, for years, can all those Republicans not call Trump on it and call it what it is, or speak out and stand up. It's because they all get in the swirl of a groupthink. It's different here, it's not the same, but it's the same sickness, it's the same idea. You pick your side and don't move, don't listen to everybody else. I'm going to support what Paul has done. Finally, when it comes to ethics if you're talking about the law, that's the rock bottom. Ethics are way above here, and if you've gone down that far you're like well it's still legal. If that's the best you can do, you're probably in a pretty bad spot: It may be legal, but it doesn't make it ethical, and we shouldn't be doing it. You can't listen to two people at once.

By a VOTE of 13-8-5 the amendment passes.

**6: 30 pm Possible consideration of previous votes on other warrant articles**

A MOTION was made and seconded to continue this meeting to December 1 so we can take up Article 27. It was voted in favor unanimously.

**6:45 pm Other business**

There being no other business, the meeting adjourned at 7:03 pm.

**VOTES**

	<b>Attendance</b>	<b>Vote 1</b>	<b>Vote 2</b>
<b># Votes Yes</b>		27	13
<b># Votes No</b>		0	8
<b># Votes Abstain</b>		0	5
<b>Vote Description:</b>		Amend the previous vote on WA 10 to incorporate Lee Selwyn's amendment requiring that all votes be available, minus the portion specified by Scott.	Amend the previous vote on WA 10 to include Paul Warren's amendment "All deliberations among voting members during a hybrid Town Meeting shall be visible to Town Meeting Members and the Public."
	<i>Enter P for Present</i>	<i>Enter Y, N or A</i>	<i>Enter Y, N or A</i>
<b>Scott Ananian</b>		y	N
<b>Carla Benka</b>		Y	Y
<b>Ben Birnbaum</b>		Y	N
<b>Harry Bohrs</b>		Y	N
<b>Cliff Brown</b>		Y	Y
<b>George Cole</b>			
<b>John Doggett</b>		Y	Y
<b>Dennis Doughty</b>		Y	Y
<b>Harry Friedman</b>		Y	Y
<b>David-Marc Goldstein</b>		Y	N
<b>Neil Gordon</b>		Y	A
<b>Susan Granoff</b>		Y	Y
<b>Kelly Hardebeck</b>		Y	A
<b>Amy Hummel</b>		Y	Y
<b>Alisa Jonas</b>		Y	N
<b>Janice Kahn</b>		Y	A
<b>Steve Kanes</b>		Y	Y
<b>Carol Levin</b>		Y	A
<b>Pam Lodish</b>			
<b>Linda Olson Pehlke</b>		Y	Y
<b>Donelle O'Neal</b>		Y	A

David Pollak		Y	N
Carlos Ridruejo		Y	Y
Lee Selwyn		Y	Y
Alok Somani		Y	Y
Paul Warren		Y	
Christine Westphal		Y	Y
Neil Wishinsky		Y	N
Chi Chi Wu		Y	N
Mike Sandman			