

Article 16 (Electric Scooters)

AMENDMENT OFFERED BY HUGH MATTISON, TMM5

To see if the Town will vote to adopt the following resolution (~~deleted text~~):

BE IT RESOLVED, that Town Meeting urges the Select Board not to adopt any further or extend any existing shared E-Scooter or other micro-mobility pilot programs or implement any permanent shared E-Scooter or other micro-mobility services, until such time as:

~~(1) the State updates and clarifies existing laws governing the use and operation of EScooters and other micro-mobility devices, and (2) the Transportation Board holds public hearings and adopts rules and regulations regarding the operation and parking of EScooters and other micro mobility devices upon public sidewalks, public paths and in parks; and,~~

BE IT FURTHER RESOLVED, that Town Meeting urges Brookline’s State legislative delegation to work with the State Legislature to ensure that in any legislation involving EScooters and other micro-mobility devices that Brookline retains local control to regulate its sidewalks with respect to the use and operation of such devices. Or act on anything relative thereto.

Explanation:

This amendment eliminates this text: ~~(1) the State updates and clarifies existing laws governing the use and operation of EScooters and other micro-mobility devices, and.~~

The purpose of this amendment to the first resolution is to remove dependence on the State schedule for changing existing laws relating to electric scooters and other micro-mobility devices. At this time, there is no schedule set for discussion of these laws by the Legislature. This resolution also asks the Select Board not to implement any pilot program until the Transportation Board has held public hearings and has adopted rules and regulations.

The pilot electric scooter program that the Select Board authorized this past spring, and that the Transportation Division successfully implemented, has provided the experience we need to fine tune a revised pilot. The primary issues of scooters cluttering sidewalks and parks, and use of scooters on sidewalks, can be addressed by the Transportation Board. After all, the purpose of a pilot program is to identify issues and work on solutions.

In the second resolution, we are asking our State representatives to work with the State Legislature to allow Brookline to retain local control to regulate its sidewalks with respect to the use and operation of electric scooters and other micro-mobility devices.

We have been leaders in the state in the use of electric scooters, and have momentum in understanding the factors needed for improvement. For example, seated scooters much more suitable for older users could expand the user community substantially. One requirement of a new pilot program could be to require rental operators Lime and Bird to offer these seated scooters.

It seems ironic that a number of warrant articles are dealing with eliminating use of fossil fuels. Without this amendment, Article 16 would actually delay the use of fossil-fuel-free vehicles until the state issues guidelines, and there is no certainty when this will occur.

ARTICLE 24

FULL PETITIONER MOTION

VOTED: That the Town amend the General by-laws to provide for a citizen complaint procedure as follows (the amended language is in **bold underline** deletions are ~~struck~~):

ARTICLE 3.14 COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS AND OFFICE OF DIVERSITY, INCLUSION AND COMMUNITY RELATIONS SECTION 3.14.1 ESTABLISHMENT AND PURPOSE

This By-law establishes the Commission for Diversity, Inclusion, and Community Relations (“Commission” or “CDICR”) and the Office of Diversity, Inclusion, and Community Relations (“Office” or “ODICR”). Valuing diversity and inclusion in and for the Brookline community, the Commission, in coordination with the Office, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline (“Town”), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy. The Purpose of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town. Inclusion is defined as actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children) (herein, “Brookline Protected Classes”). In striving to achieve the goal of inclusion, the Commission shall be guided by the following general principles: (1) the foundation of community is strong and positive community relations among and between all groups and individuals in the community, regardless of their membership in a Brookline Protected Class; (2) the substance of community is the recognition of human rights principles as applicable to all persons who come in contact with the Town; (3) justice in a community requires, at a minimum, monitoring and enforcing civil rights laws as they apply to all persons who come in contact with the Town; and (4) the commitment of the Town to these principles requires vigorous affirmative steps to carry out the word and spirit of the foregoing. The Commission shall consist of fifteen (15) residents of the Town, who shall be called Commissioners. Commissioners shall be appointed by the Select Board and shall hold office for a period of not more than three (3) years with terms of office expiring on August 31 of an appropriate

year in a staggered manner so that approximately one-third (1/3) of the terms of the Commissioners will expire each year. A Commissioner whose term is expiring is expected to submit their renewal application to the Select Board not later than August 1 of the expiration year. The term of a Commissioner who does not submit a renewal application in a timely manner shall expire on August 31 of that year. The term of a Commissioner who submits a timely renewal application shall then be extended until notified by the Town Administrator that the renewal application has been acted upon. If the application is denied, the term of that Commissioner shall expire five days after the date of the denial letter. If the application is approved, the term shall expire on August 31 of the year specified in the approval letter. The Select Board may appoint additional non-voting associate members (Section 3.1.5) as it determines to be necessary, which may include youth or persons who do not reside in Brookline but have a substantial connection to Brookline or to the Brookline Public Schools. The Select Board shall select one of its members to serve ex officio as a nonvoting member of the Commission. A quorum of the Commission shall consist of a majority of the serving members on the Commission, with a minimum of six. The Select Board shall seek a diverse and inclusive group of candidates for the Commission, which may include youth. Candidates for Commissioner shall be qualified for such appointment by virtue of demonstrated relevant and significant knowledge, life experience, or training. The composition of the Commission shall include persons with the types of such knowledge, experience, or training necessary to enable the Commission to perform the duties assigned to it by this By-law. All Commissioners shall serve without compensation. In the event of discontinuance of the service of a Commissioner due to death or resignation, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the Select Board candidates to fill such vacancies.

SECTION 3.14.2 APPOINTMENT, ROLES AND RESPONSIBILITIES OF THE DIRECTOR AND CHIEF DIVERSITY OFFICER

There shall be an Office of Diversity, Inclusion and Community Relations ("Office"), which shall be a unit of the Select Board's Office, and led by a professional in the field of human relations or similar relevant field of knowledge, who shall be known as the Director of the Office of Diversity, Inclusion and Community Relations ("Director"), and that person shall also serve as the Chief Diversity Officer ("CDO") for the Town. In the event of a vacancy in the position of Director, the Town Administrator, after consultation with the Commission, shall recommend to the Select Board a replacement with appropriate qualifications. The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this By-law or any other Bylaw giving the Commission responsibilities. If needed, the Director shall ask for additional assistance to carry out the Director's duties. The Office shall be physically situated in whatever department the Town Administrator determines would most easily provide the Director any such assistance. The Director shall be a Department Head/Senior Administrator and shall report to the Town Administrator. The Director/CDO may bring a matter directly to the attention of the Select Board in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO work with the

Human Resources Office to promote diversity and inclusion. The CDO shall serve in the role of ombudsperson to provide information and guidance and dispute resolution services to all persons who come in contact with the Town who feel that they have been discriminated against or treated unfairly due to their membership in a Brookline Protected Class, or in relation to Fair Housing or Contracting issues, interactions with businesses or institutions in the Town, or interactions with the Town and/or employees of the Town. The CDO shall be responsible, with the advice and counsel of the Commission, the Human Resources Director, and the Human Resources Board, for the preparation and submission to the Select Board of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures. The diversity and inclusion policy shall address hiring, retention and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion. The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town Counsel, or such other body as the CDO deems appropriate. The Director/CDO shall report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who comes in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after seeking the services of the CDO in said officer's role as an ombudsperson, the Director/CDO may discuss the case in general terms with the Commission (see Section 3.14.3(A)(v)). The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The Director/CDO shall hold all such Town employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss with the Commission, in general terms, the problems or issues that such individual cases, provided, however, doing so does not violate any person's rights to privacy.

SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

(A) To implement the Mission of the Commission and the Office, the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:

(i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;

(ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;

(iii) Work with the Select Board, the Town’s Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, and awareness of and sensitivity to civil and human rights in all departments and agencies of Town government;

(iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the Select Board, including equal employment opportunity and affirmative action procedures, or amendments or revisions thereto, and make suggestions, through the CDO to the Human Resources Director, the Human Resources Board, and the School Committee on the implementation of the diversity and inclusion policy;

(v) Receive Complaints Against the Town, directly or through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see Section 3.14.2), and after notifying the Town Administrator, ~~review and summarize the complaint and issues of concern to the Commission, without investigating or making determinations of fact, or drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any Town agency, Town official or employee.~~ **the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Select Board, Library Trustees or Moderator as appropriate within 90 days of receipt of the complaint.** The Commission/CDO, may in addition ~~(1) present its summary and concerns to the Town Administrator and the Select Board for consideration of further action and/or (2) provide the complainant with information on complainant’s options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agencies.~~ This By-law does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Citizen Complaint Procedure or the Human Resources Office’s procedures;

(vi) Receive Complaints Against the Public Schools of Brookline, directly or through the CDO, against the Public Schools of Brookline, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Schools, except school employees, and, after notifying the Superintendent of Schools, the Assistant Superintendent for Human Resources, and/or the School Committee of the complaint, ~~review and summarize the complaint and any issues of concern to the Commission, without investigating or making determinations of fact or drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any School official or employee.~~ **the Commission shall (1)**

investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Superintendent and/or School Committee as appropriate within 90 days of receipt of the complaint. The Commission/CDO, may in addition ~~(1) present its summary and concerns to the School Superintendent and/or the School Committee for consideration of further action and/or~~ ~~(2) provide the complainant with information on complainant's options regarding dispute resolution and the boards, agencies, or courts to which the complainant may file a complaint.~~ The Public Schools of Brookline are encouraged to engage the expertise and/or resources of the CDO/Commission when pursuing resolution of any such complaints and/or when revising policies and procedures relative to diversity and inclusion.

vii) Receive Other Complaints: ~~according to procedures developed by the Commission and as approved by the Select Board, and initiate preliminary review of the facts, without drawing any legal conclusions, from any person who comes in contact with the Town, concerning allegations of discrimination or bias against a member of a Brookline Protected Class.~~ **After receiving such a complaint, the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Select Board within 90 days of receipt of the complaint.** ~~The Commission shall also have the authority, in its discretion, to take one or more of the following actions: (1) Provide the complainant with information about complainant's options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agency; (2) Refer the complainant and any other parties to the complaint to the CDO acting as ombudsperson or to a local or regional mediation service; (3) Present any results of preliminary review of the alleged facts to the Town Administrator and/or the Select Board, in an appropriate case, for action;~~ **The Commission/CDO may in addition provide the complainant with information on complainant's options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agencies.**

(viii) The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v), (vi) ~~and (vii)~~ above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the annual report filed with the Board pursuant to Section 3.14.6 of this By-law.

~~(viii)~~ Develop official forms for the filing of complaints under paragraphs (v) and (vi) above and also procedures for the receipt of such complaints and follow-up by the Commission **to the extent not inconsistent with the procedures set forth in paragraphs (v) and (vi);**

(ix) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this Bylaw in relation to its Fair Housing responsibilities, as authorized by law, under Bylaw 5.5;

(xi) With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer's role as ombudsperson, to facilitate changes that will reduce and eliminate violations of rights;

(xii) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;

(xiii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity and inclusion, and encourage public and private agencies to respond to those youth needs.

(B) To carry out the foregoing responsibilities, the Commission is authorized to work with community organizations, government and nonprofit agencies, educational institutions, persons with relevant expertise, and others to:

(i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;

(ii) Conduct or receive research in the field of human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, after approval by the Select Board and review by Town Counsel, to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevance and validity and for its openness to diverse viewpoints and perspectives;

(iii) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevance and validity and for its openness to diverse viewpoints and perspectives;

(iv) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town By-laws.

(C) At least every two years, prepare written organizational goals for the Commission (“Commission’s Goals”) that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) designated as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission’s Goals shall be submitted to the Select Board at a public meeting and posted on the Town’s website. The Commission shall receive and consider the comments of the Select Board at the public meeting and shall also receive and consider written comments from the community on the Commission’s Goals.

SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this By-law, the Commission, with the approval of the Select Board, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the Commissioners and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues. The Commission may also establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing, with the approval of the Select Board, after review by Town Counsel. Such rules and regulations may further provide for the governance of the Commission with respect to matters such as the appointments of committees as necessary to deal with specific community issues or concerns.

SECTION 3.14.5 INFORMATION, COOPERATION, AND DIALOGUE

The Commission shall notify the Town Administrator of all complaints it records. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws. The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff. The School Superintendent and the Library Director, or their designees, shall annually provide a report to the Commission on their statistics on employment diversity, including but not limited to the most recently completed EEO-5 form. The Police Chief shall annually present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or through written reports; and all Town departments, including the Brookline Public Schools, are encouraged to cooperate with the Commission as it reasonably requests.

SECTION 3.14.6 REPORT

With the assistance of the Director, the Commission shall submit an annual report to the Select Board, the School Committee, and the Board of Library Trustees, detailing its activities and the results thereof. This report shall include (i) a review of the implementation of the diversity and inclusion policy by the Town, (ii) the Commission's Goals and a report on the extent to which the goals have been achieved to that point, (iii) a review of reports received by the Commission from the Director of Human Resources, the School Superintendent, the Library Director, and other Town departments or agencies, (iv) a narrative discussion of any impediments to the implementation and achievement of the Commission's Goals and its diversity and inclusion policy, and (v) recommendations of ways that such impediments could be removed. A synopsis of such report shall be published as part of the Annual Report of the Town.

SECTION 3.14.7 FIVE YEAR REVIEW

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this Bylaw and any other related Town by-laws, in consultation with other pertinent departments, and propose changes if necessary, by preparation of appropriate Warrant Articles for consideration by Town Meeting. **The Commission shall prepare a written report summarizing its review and proposing any changes no later than February 1, 2020.**

ARTICLE 25

Statement of Bernard Greene, Chair of the Select Board and Chair of the Surveillance Technology and Military-Type Equipment Study Committee (the “Surveillance Committee”), but speaking for himself.

I take no position on the Petitioner’s Warrant Article or the amendment to be presented by Casey Hatchett on behalf of the Surveillance Committee. But I do urge Town Meeting to reject the Advisory Committee’s recommendation to refer the subject of Warrant Article 25 to a new Moderator’s Committee. Referral is unnecessary as the Surveillance Committee, as acknowledge by the Advisory Committee in its Supplemental Recommendation, is the appropriate committee and, in any event, has face surveillance as part of its Charge. Irrespective of whether the Petitioner’s ban or the Hatchett amendment is adopted, the necessary deeper study and recommendation of appropriate face surveillance usage and the required regulatory over-sight of such usage will be undertaken by the Surveillance Committee. In the meantime, Police Chief Lipson has stated that the Police Department neither possesses nor has any plans to acquire face surveillance technologies. This gives us time to address face surveillance comprehensively.

* * *

Warrant Article 25 would impose a ban on “Face Surveillance,” which the article defines as “an automated or semi-automated process that assists in identifying an individual, or in capturing information about an individual, based on the physical characteristics of an individual’s face.”

The subject of face surveillance is complex and is not adequately addressed with a simple ban. One consequence of failing to acknowledge that complexity is not distinguishing face identification technologies from face surveillance. We know and fear face surveillance based in part on news reporting of its use in China for political repression purposes. And we also fear such use in the United States under the current political conditions and its actual use in mass attendance events such as the 2001 Super Bowl where it was used for the purported purpose of identifying terrorists. Face identification, on the other hand, has many potential legitimate uses, but Warrant Article 25 would (based on the above quoted definition) ban, with some exceptions, any “process that assists in identifying an individual.”

The Advisory Committee’s Supplemental Recommendation lists examples of the use of face identification that may be appropriate if accompanied by tough regulatory controls to prevent misuse. There may be other uses and some of the listed uses may be too easily used for improper purposes to be permitted in Brookline. The Advisory Committee’s Supplemental Recommendation also provides a good summary of some of the concerns

expressed by Town Counsel and the Police Chief that the Advisory Committee noted may not have been fully addressed by the Petitioner. I won't repeat those here, but I do urge Town Meeting Members to review them before voting on Warrant Article 25.

The amendment that was voted favorably by four members of the Surveillance Committee, including myself, solely for the purpose of having a broader discussion, would permit, "face surveillance technology for specific and narrow purposes approved by the Select Board." However, if the Select Board fails to approve such purposes before January 1, 2021 any use would be permitted with some minor controls, including reporting to the Select Board and the Surveillance Committee.

The Advisory Committee is recommending a Moderator's Committee to examine the complexities of Face Surveillance and come up with findings for the November 2020 Town Meeting. The Advisory Committee noted that the Surveillance Committee "would, in general, be the appropriate committee to study the substance of WA 25..." but it dismissively asserted that the Surveillance Committee "has met infrequently." It is unfortunate that this statement appears in the Advisory Committee's Supplemental Recommendation. It is not an accurate statement and, therefore, not an appropriate basis for bypassing the Surveillance Committee.

The Surveillance Committee was on a monthly meeting schedule addressing the broad subject matter assigned to it beginning **May 30**. Petitioner states that she noted at the **July 25** meeting her intention to bring a warrant article on face recognition. On **September 12** the Petitioner's warrant article was presented. The committee had a discussion at that meeting and it became clear that there was little agreement among committee members. The Surveillance Committee next met on **October 10** for its regular meeting to work on the many tasks on its work-plan. Chief Lipson attended this meeting and expressed his concerns with Warrant Article 25 and the committee discussed those concerns and how to proceed on the warrant article. It then met for a special meeting the next week on **October 18** to allow the Petitioner to present a revised article following consultations with the Police Chief. At that meeting Chief Lipson expressed his continuing concerns and committee members suggested various amendments and articulated other concerns. Committee member Scott Ananian agreed try to incorporate the concerns of the members and Chief Lipson into a proposal that could be presented at a public hearing of the committee and possibly presented as the Surveillance Committee's recommendation to Town Meeting. Mr. Ananian was unable to come up with a consensus proposal and committee member Casey Hatchett presented an amendment to the committee at a public hearing held on **October 23**. The Surveillance Committee also actively participated in the **October 23** public hearing of the Advisory Committee Subcommittee on Public Safety. The next week on **October 30** the Surveillance Committee met to consider the results of the two hearings and other information from Town bodies and its own deliberations. The committee voted 4 in favor of the Hatchett amendment, 1 in favor of the Petitioner's article, with 1 abstention.

The Surveillance Committee currently has surveillance, including face surveillance technologies as part of its work plan. Its Charge directs it to study the issues associated with surveillance technology including the use of such technology in Brookline and any local, state, or federal policies or regulations governing them. The Surveillance Committee's Charge could be expanded by the Select Board to address face surveillance with additional members with specialized expertise and with time lines for completion of specific tasks. The Surveillance Committee's Charge is attached hereto.

So Warrant Article 25 either in the form as moved by the Petitioner or as amended by the Surveillance Committee will be only the first step in addressing face surveillance. Because the Police Chief says that the Department neither possesses nor has no plans to acquire or use face surveillance, other than the uses excluded by the Petitioner's article, we have time to address the broader issues presented by this new and complex technology. This task will be undertaken by the Surveillance Committee and where appropriate will present recommendations for Select Board action or, if necessary, proposed Warrant Articles for a future Town Meeting.

CHARGE
Warrant Articles 28, 29, and 30
May 2018 Annual Town Meeting

At the May 2018 Annual Town Meeting (the “Annual Town Meeting”), the body voted to establish a Select Board committee to study (1) the technology that is being, or could be used by Brookline police and other governmental and private bodies to monitor and surveil Brookline citizens, (2) the actual or potential acquisition by the Brookline police department of military-type equipment, and (3) related issues raised by Warrant Articles 28, 29, and 30 of the Annual Town Meeting. The Annual Town Meeting voted to direct the committee to present recommendations to the Select Board to address any problems or issues identified in its study.

The Annual Town Meeting recognized that surveillance technology and military-type equipment that may be offered to the Town by the federal government or surveillance technology and military-type equipment that the Town acquires by other means may offer many benefits. But the Annual Town Meeting also recognized that it would be naïve to fail to distinguish those benefits from the potential threat to the civil liberties and values of Brookline residents.

To implement the purposes of Warrant Articles 28, 29, and 30, the Select Board hereby establishes a Surveillance Technology and Military-type Equipment Study Committee (the “Committee”) to study and prepare a report with recommendations and suggestions for implementation (“Report”) to the Select Board on the use and risks associated with such technology and equipment. The Committee shall be organized as follows:

- a. The Committee shall be comprised of five residents of Brookline appointed by the Select Board. The Select Board may appoint additional resident voting members to the Committee upon the request of the Committee.
- b. The Brookline Chief of Police, or the police chief’s designee, the head of the Information Technology Department, or said department head’s designee, and the Chair of the Critical Infrastructure Monitoring System Oversight Committee, or said chair’s designee, shall also be voting members of the Committee.
- c. A majority of the voting members shall be a quorum for the conduct of business.
- d. A member of the Select Board shall chair the Committee.

The Committee shall study the issues associated with surveillance technology and military-type equipment, including the use of such equipment in Brookline and any local, state, or federal policies or regulations governing them. Warrant Articles 28, 29, and 30 should not be the starting point of the study, rather the committee will start fresh, looking at the often different issues presented by surveillance technology and military-type equipment as they

relate to the particular realities of Brookline not scenarios that may unfold in other less progressive jurisdictions. The Committee’s tasks shall include:

1. To produce “an inventory of all surveillance technology and military-type equipment” used or available for use by the police department or other Town departments, including (i) type, (ii) purpose and uses, (iii) capabilities, including, without limitation, picture resolution and mobility of surveillance devices, (iv) required training, (v) location of, and period of time any video or other images are retained, (vi) location of military-type equipment and who has access to such equipment, (vii) accessibility rights or restrictions on access by the public of surveillance products, and (viii) any other information that the Committee determines to be necessary for the preparation of its Report.
2. To distinguish technologies and equipment that need high level oversight from those that require less or no oversight, such as security cameras in the library or schools or computer monitoring software that is used to protect students.
3. To review surveillance and data gathering by regional or national organizations, such as the Boston Regional Information Center, and determine whether Brookline’s voluntary or involuntary relationships with such organizations needs additional oversight, transparency, or controls.
4. To examine existing state laws and regulations and Town bylaws governing private cameras and existing practices in Brookline and include in its recommendations any suggested protections that the Town can provide against their misuse.
5. To review police department policies and procedures, bylaw provisions, and any union or other contract provisions as they relate to surveillance technologies, including body cameras, cruiser mounted cameras, and street surveillance cameras, and military-type equipment.
6. To collect and review explanatory and technical information as necessary in the performance of the Committee’s tasks and consult with experts or other knowledgeable persons on the subjects of this Charge.
7. To produce the Report for submission to the Select Board. In preparing its Report, the Committee shall (i) hold at least one public hearing and take for its consideration the comments of the public, (ii) prepare a draft of the Report with a preliminary list of recommendations, incorporating any appropriate comments from the public hearing, (iii) present the preliminary recommendations to the Chief of Police, Town Counsel, and the Town Administrator for their comment as to feasibility and compliance with Town bylaws, contractual obligations, or federal or state requirements, and (iv) meet to vote on the final Report, including recommendations that incorporate any agreed comments of the Chief of Police, Town Counsel, and the Town Administrator.

If, in connection with the above tasks, the Chief of Police, Town Administrator, or Town Counsel raises a concern that any information sought by the Committee is exempt from disclosure under the Massachusetts Public Records Law or for some other reason should not be disclosed or discussed in a public meeting of the Committee, the Committee's chair shall meet with the person raising the concern to be briefed on the reasons for the concern and discuss alternative information or alternative ways of sharing such information with the Committee, including redacted information or information provided in an executive session meeting of the Committee.

Following the Committee's vote on the final Report, the Committee shall present the Report to the Select Board.

Following acceptance of the Report by the Select Board, the Committee shall disband.

ARTICLE 33

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Warrant Article 33 seeks to amend the wording in the General By-Laws to be more inclusive and to provide clarity and consistency.

By a vote of 16-0-7, the Advisory Committee amended its previous vote and recommends FAVORABLE ACTION on the petitioner's revised motion with the further deletion of any changes to section 4.8.6(c) (Living Wage By-Law).

Background

Subsequent to its original vote, the Advisory Committee received the full report and recommendations of the Committee on Town Organization and Structure (CTOS) which have been incorporated into the petitioner's revisions. In general, the proposed By-Law changes replace the word "citizen" with "resident" and broaden some protections and privileges delineated in the By-Laws to cover "the public" rather than "citizens" or "inhabitants."

Discussion

CTOS found these changes to be helpful and to meet the intent of the By-Laws, noting under section 3.12.3.C.10 that application of the word "public" should be applied with common sense. Under sections 3.12.3.C.21 (relating to the Department of Planning and Community Development) and section 3.21.1c (relating to participation in the business of Town governmental bodies), it recommended using the term "residents and other interested parties." Notification of public meetings (section 3.21.3.b) and snow emergencies (Article 7.9) are already open to the public through posting on the Town website and by non-residents asking to be included in e-mail or telephone notification lists. CTOS recommended retaining the phrase "including but not limited to its younger population" with regard to tobacco control (Section 8.23.1) to emphasize particular concern for this group. The full CTOS report was included in the supplemental mailing (Article 33 – Supplement No. 2).

A member of the Advisory Committee questioned extending the right to file a complaint under the town's living wage by-law (Section 4.8.6) to members of the public. CTOS did not address this particular section in its review. Though a common sense reading could limit the right to those with an intimate knowledge of the Town's By-Laws and their implementation, the Advisory Committee amended the petitioner's motion by eliminating any changes to section 4.8.6. All of the proposed By-Law changes will require the approval of the Attorney General.

Recommendation

By a vote of 16 in favor, 0 opposed and 7 abstentions, the Advisory Committee recommends FAVORABLE ACTION on the petitioner's amended motion as further amended below.

VOTED: That the Town amend its General By-laws, by removing references to "inhabitants" and "citizens," and replacing such words with more appropriate terms, and making other such changes as will clarify the intent of the By-laws, as follows (deletions in ~~strike through~~; additions in **bold underline**):

SECTION 1.1.4 DEFINITIONS:

In construing these by-laws the following words shall have the meanings herein given, unless a contrary intention clearly applies:

- a. "Appointing authority", unless otherwise specifically provided by law, shall be the Select Board.
- b. "By-laws" shall mean these by-laws, that do not include the zoning by-laws and the classification and pay plan, as amended from time to time.
- c. "Committee" shall include an elected or appointed board, commission, council and trustees.
- d. ~~"Inhabitant"~~ **"Resident"** shall mean a resident ~~in~~ **of** the town **of Brookline**.
- e. "Legislative body" shall mean the Town Meeting.
- f. "Law", "General Laws" Or "Chapter" shall mean the law, statute or act referred to, as amended from time to time.
- g. "Municipal officer" shall mean an elected or appointed official or member of a committee and a department head but shall not include Town Meeting Members and Town employees.

SECTION 2.1.10 TOWN MEETING MEMBERS AT LARGE:

Pursuant to the authority contained in Section 5 of Chapter 43A of the General Laws (Ter. Ed.) the following officers are designated as Town meeting members-at large: (1) ~~the members, inhabitants~~ **residents** of the Town, who are the elected representatives of the Town **or any part thereof** in the General Court of the Commonwealth of Massachusetts, (2) the moderator, (3) the town clerk, and (4) ~~the~~ Select Board **members**.

ARTICLE 3.12 DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT -
SECTION 3.12.3 DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT -
subsection (C), item 10 and 21:

10. to provide the ~~town~~ **Town** with and, from time to time, amend Comprehensive Plans for land use, public and private transportation and parking, open space, recreation, urban renewal, telecommunications and utility services, economic development, housing, historic preservation and also for the future development and preservation of town resources consistent with its physical, social and economic requirements and the health, safety and welfare of its ~~inhabitants~~ **the public**.

21. to facilitate and maximize meaningful input to ~~town~~ **Town** boards and officials **to the extent reasonably practical** from ~~Brookline citizens~~ **Residents and other interested parties, including** civic associations and neighborhood organizations.

ARTICLE 3.14 COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS AND OFFICE OF DIVERSITY, INCLUSION AND COMMUNITY RELATIONS – SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION – item (v):

(v) Receive Complaints Against the Town, directly or through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see Section 3.14.2), and after notifying the Town Administrator, review and summarize the complaint and issues of concern to the Commission, without investigating or making determinations of fact, or drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any Town agency, Town official or employee. The Commission/CDO, may in addition (1) present its summary and concerns to the Town Administrator and the Select Board for consideration of further action and/or (2) provide the complainant with information on complainant's options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agencies. This By-law does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's ~~Citizen~~ **Civilian** Complaint Procedure or the Human Resources Office's procedures;

ARTICLE 3.15 HUMAN RESOURCES PROGRAM, BOARD AND OFFICE SECTION 3.15.1 PURPOSE AND INTENT

The purpose of this bylaw is to ensure the establishment of fair and equitable Human Resources policies for the Town of Brookline and its employees; and to provide a system of Human Resources administration that is uniform, fair, and efficient and which represents the mutual interests of the ~~citizens of the Town~~ **public** and the employees of the Town.

SECTION 3.15.2 HUMAN RESOURCES PROGRAM TO BE CONSISTENT WITH ACCEPTED MERIT PRINCIPLES AND APPLICABLE STATE AND FEDERAL LAWS – item (e):

(e) assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, gender, gender identity or gender expression, sexual orientation, marital status, handicap or religion and with proper regard for privacy, basic rights outlined in this chapter and **their** constitutional rights ~~as citizens~~, and;

ARTICLE 3.21 READILY ACCESSIBLE ELECTRONIC MEETING NOTICES, AGENDAS AND RECORDS -

Section 3.21.1 Purpose and Applicability:

This by-law applies to the meetings of all Brookline governmental bodies subject to the Open Meeting Law, now G.L. c. 39, §§23A et seq. (hereinafter, respectively, "meetings" and "OML"), and is intended (a) to take advantage of the internet and its increasing use;

(b) to better implement the spirit of the OML; and (c) to the extent reasonably practical, to improve opportunities for broader and more meaningful ~~citizen~~ participation **by Residents and other interested parties** in the business of Town governmental bodies.

Section 3.21.3 Meeting Notices and Agendas – item (b):

(b) With the assistance and direction of the Town Clerk and ITD, the information specified above shall be disseminated in a timely manner to ~~citizens~~ **members of the public** who join the aforementioned notification list(s).

ARTICLE 4.1 ACCOUNTS AND AUDITS SECTION - SECTION 4.1.3 AUDIT REPORTS

All reports by the independent auditor shall be available for inspection by ~~citizens of the Town~~ **the public** during regular business hours at the Town's offices. The audit report shall also be made available at the Main Library.

ARTICLE 4.6 PUBLIC RELATIONS AND INFORMATION

The Town may appropriate a sum not to exceed \$1,500.00 in any year to be expended by the Personnel Board, with the approval of the Select Board, for the purpose of furnishing information including, without limitation, the results of its investigations, its opinions and recommendations, to the ~~inhabitants of the Town~~ **public** or to Town Meeting members, pertaining to an article or articles in the Warrant for a town meeting which relate to wages, hours or other conditions of employment of ~~town~~ **Town** employees.

ARTICLE 4.8 LIVING WAGE BY-LAW - SECTION 4.8.6, item (c), first paragraph:

c. Enforcement Grievance procedures and nondiscrimination. Any covered employee who believes that his or her employer is not complying with requirements of this article applicable to the employer has the right to file a complaint with the town's Chief Procurement Officer or Select Board. Complaints of alleged violations may also be filed by concerned citizens or by a town official or employee. Complaints of alleged violations may be made at any time and shall be investigated promptly by or for the officer or board that received the Complaint. To the extent allowed under the Public Records Law, G.L.c.66, statements, written or oral, made by a covered employee, shall be treated as confidential and shall not be disclosed to the covered employer without the consent of the covered employee.

[NO CHANGES ARE BEING MADE TO THIS SECTION OF THE BYLAW]

ARTICLE 6.6 DISCHARGING FIREARMS:

No person shall fire or discharge any gun, fowling-piece, or firearm within two hundred feet of any street in the town of Brookline or on any private grounds, except with the consent of the owner thereof; provided, however, that this by-law shall not apply to the use of such weapons at any military exercise, in law enforcement or in the lawful defense of the person, family, or property of any ~~citizen~~ **person**.

ARTICLE 7.9 SNOW PARKING BAN:

No person shall allow any vehicle to remain in or within a street or way when a snow emergency parking ban has been declared by the Chairman of the Select Board, or in the absence of the Chairman, by a Select Board member.

A Snow Emergency Parking Ban may be declared by the Chairman of the Select Board, or in the absence of the Chairman, by a Select Board member, whenever there are indications that the threat of substantial snow is imminent, whenever there has been a substantial snow and snow removal operations are underway or are about to commence, or whenever a substantial snow creates conditions that require a vehicular driving or parking ban throughout the town. Upon the declaration of a Snow Emergency Parking Ban notice thereof shall be given to the Town Clerk's office, the Police Department, the Fire Department and the Department of Public Works. Reasonable action shall also be taken to notify and warn the ~~inhabitants of the Town~~ **public** of the ban.

ARTICLE 8.12 HAWKERS AND PEDDLERS - SECTION 8.12.4 NO DISTURBING THE PEACE:

No person hawking, peddling, or carrying or exposing any article for sale shall cry his wares to the disturbance of the peace and comfort of the ~~inhabitants of the Town~~ **public**, nor shall carry or convey such articles (in any manner that will tend to injure or disturb the public health or comfort nor) otherwise than in vehicles and receptacles which are neat and clean and do not leak.

ARTICLE 8.12 HAWKERS AND PEDDLERS - SECTION 8.12.2 LICENSING

The Town Administrator shall have authority to grant such license to any person of good repute for morals and integrity ~~who is or has declared his intentions to become a citizen of the United States~~. Said license, unless sooner revoked by the board or officer granting the same, shall expire one year from the date of issue, and each person so licensed shall pay therefore a fee of twenty-five dollars.

ARTICLE 8.15 NOISE CONTROL:

SECTION 8.15.2 DECLARATION OF FINDINGS, POLICY AND SCOPE , item (a):

- (a) Whereas excessive Noise is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive Noise may be substantially abated; and whereas the people have a right to and should be ensured an environment free from excessive Noise that may jeopardize their health or welfare or safety or degrade the quality of life; now, therefore, it is the policy of the Town of Brookline to prevent excessive Noise which may jeopardize the health and welfare or safety of ~~its citizens~~ **the public** or degrade the quality of life.

SECTION 8.15.7 PERMITS FOR EXEMPTIONS FROM THIS BY-LAW, item (b):

- (b) The applications required by (a) shall be on appropriate forms available at the office of the Select Board. The Select Board, or designee, may issue guidelines defining the procedures to be followed in applying for a special permit. The following criteria and conditions shall be considered: (1) the cost of compliance will not cause

the applicant excessive financial hardship; (2) additional Noise will not have an excessive impact on ~~neighboring citizens~~ **the public**.

ARTICLE 8.16.1 COLLECTION AND RECYCLING OF WASTE MATERIALS - PURPOSE:

Article 8.16 is enacted to maintain and expand the Town's solid waste collection and recycling programs under its Home Rule powers, its police powers to protect the health, safety and welfare of ~~its inhabitants~~ **the public** and General Laws, Chapter 40, Section 21; Chapter 21A, Sections 2 and 8; Chapter 111, Sections 31, 31A and 31B and to comply with the Massachusetts Waste Ban, 310 CMR 19.

ARTICLE 8.23 TOBACCO CONTROL - SECTION 8.23.1 – PURPOSE:

In order to protect the health, safety and welfare of the ~~inhabitants of the Town~~ **public**, including but not limited to its younger population, by restricting the sale of and public exposure to tobacco and e-cigarette products known to be related to various and serious health conditions such as cancer, this by-law shall limit and restrict the sale of and public exposure to tobacco and e-cigarette products within the Town of Brookline.

ARTICLE 8.29 NUISANCE CONTROL - SECTION 8.29.1 PURPOSE:

In order to protect the health, safety, and welfare of the ~~inhabitants of the Town~~ **public**, this bylaw shall permit the Town to impose liability on Property Owners and other responsible persons for the nuisances and harm caused by loud and unruly Gatherings on private property and shall prohibit the consumption of alcoholic beverages by underage persons at such Gatherings.

ARTICLE 8.30 FINGERPRINT-BASED CRIMINAL RECORD BACKGROUND CHECKS - SECTION 8.30.1 PURPOSE/AUTHORIZATION:

In order to protect the health, safety, and welfare of the ~~inhabitants of the Town of Brookline~~ **public**, and as authorized by chapter 256 of the Acts of 2010, this by-law shall require a) applicants for certain Town licenses permitting the engagement in specific occupational activities within the Town as enumerated in Section 8.30.2 below to submit to fingerprinting by the Brookline Police Department, b) the Police Department to conduct criminal record background checks based on such fingerprints, and c) the Town to consider the results of such background checks in determining whether or not to grant a license. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI) as may be applicable to conduct on the behalf of the Town and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law. The Town authorizes the Police Department to receive and utilize FBI records in connection with such background checks, consistent with this by-law.

Article 8.31 Leaf Blower Control – SECTION 8.31.6: PERMITS FOR EXEMPTIONS FROM THIS BY-LAW, item (b):

(b) The Select Board, or designee, may issue guidelines defining the procedures to be followed in applying for a special permit. The following criteria and conditions shall be considered: (1) the cost of compliance will not cause the applicant excessive financial hardship; (2) additional noise will not have an excessive impact on ~~neighboring citizens~~ **the public**. (3) the permit may require portable acoustic barriers during night use. (4) the guidelines shall include reasonable deadlines for compliance or extension of non-compliance. (5) the number of days a person seeking a special permit shall have to make written application after receiving notification from the Town that (s)he is in violation of the provisions of this By-law. (6) If the Select Board, or its designee, finds that sufficient controversy exists regarding the application, a public hearing may be held. A person who claims that any special permit granted under (a) would have adverse effects may file a statement with the Select Board, or designee, to support this claim.