

MODERATOR

Edward N. Gadsby, Jr.

ADVISORY COMMITTEE

Nancy Daly, Chair, 161 Rawson Road.....	232-0728
Harry K. Bohrs, Vice Chair, 97 Toxteth Street.....	566-3556
Carla Wyman Benka, 26 Circuit Road.....	277-6102
Michael Berger, 112 Wolcott Road.....	734-6139
Acheson H. Callaghan, Jr., 258 Walnut Street.....	731-4737
Robert H. DeVries, 18 Acron Road.....	731-8595
L. Branch Harding IV, 145 Woodland Road.....	738-0716
Sytske V. Humphrey, 46 Gardner Road.....	277-1493
Jonathan Karon, 94 Naples Road.....	232-2558
Estelle Katz, 41 Park Street.....	566-3457
Frederick Lebow, 71 Colchester Street.....	739-1930
Roger R. Lipson, 622 Chestnut Hill Avenue.....	232-0408
Pamela Lodish, 195 Fisher Avenue.....	566-5533
Shaari S. Mittel, 309 Buckminster Road.....	277-0043
Sergio Modigliani, 134 Salisbury Road.....	735-9197
Charles Moo, 1853 Beacon Street.....	232-8796
William B. Powell, 16 Columbia Street.....	731-0013
Stanley L. Spiegel, 39 Stetson Street.....	739-0448
Ronny M. Sydney, 1443 Beacon Street.....	232-8986
Neil Wishinsky, 20 Henry Street.....	739-0181
Robin E. Coyne, Budget Analyst, Town Hall.....	730-2115

MAY 22, 2001

ANNUAL TOWN MEETING

INDEX

ARTICLE NO

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2. Annual authorization of compensating balance agreements. (Treasurer/Collector)
3. Report on close-out of special appropriations and rescind unused borrowing authorizations. (Selectmen)
4. Approval of unpaid bills of prior fiscal year. (Selectmen)
5. Acceptance of legislation to increase property tax exemptions. (Assessors)
6. Establishment of a Water and Sewer Enterprise Fund. (Selectmen)
7. Annual appropriations article. (Selectmen)
8. Acceptance of Chapter 411 of the Acts of 2000 – Provides for an automatic “Pop-Up” for the eligible members of the Non-Contributory Retirement System on the same basis as the eligible members of the Contributory Retirement System. (Retirement Board)
9. Amendment to Town By-Laws – Creation of a Living Wage By-Law. (Petition of Patricia Connors)
10. Amendment to Town By-Laws – Addition of 4.7 - Public Hearing Before Preliminary Design Stage. (Petition of Gary Jones)
11. Amendment to the Zoning By-Law Section 2.09 – Family - necessary to comply with a recent decision of the United State Supreme Court. (Town Counsel)
12. Amendment to the Zoning By-Law Section 4.30 – Table of Use Regulations - to allow for for-profit health clubs in two zoning districts by special permit. (Planning Board)
13. Amendment to Article 7.7 of the Town By-Laws – Removal of Snow and Ice from Sidewalks - to include a reporting requirement in the Town’s Annual Report. (Petition of Martin Rosenthal)

14. Amendment to Section 4.2.9 of the Town By-Laws – Selectmen’s Report - to expand the reporting of Town Meeting actions. (Petition of Martin Rosenthal)
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16. Legislation authorizing a change in the Percentage of Tax Levy imposed on Real and Personal property. (Petition of Stanley Spiegel)
17. Legislation to authorize the Town of Brookline to Lease Town-Owned Property for Twenty-Five Years. (Selectmen)
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19. Legislation authorizing an increase in the ceiling in the Parking Violation fine schedule. (Selectmen)
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21. Legislation authorizing the Town of Brookline to regulate the operation and use of hand held telephones, including so-called cellular telephones and similar hand held devices, in motor vehicles. (Petition of Lisa Liss)
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24. Establishment of the Golf Enterprise Fund Advisory Committee. (Petition of Steven T. Ladoulis)
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2001 ANNUAL TOWN MEETING WARRANT REPORT

The Board of Selectmen and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2001 Annual Town Meeting to be held on Tuesday, May 22, 2001 at 7:00 p.m.

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

ARTICLE 1

FIRST ARTICLE

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

SELECTMEN'S RECOMMENDATION

The Selectmen unanimously recommend FAVORABLE ACTION on the following vote.

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

ADVISORY COMMITTEE'S RECOMMENDATION

RECOMMENDATION

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

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ARTICLE 2

SECOND ARTICLE

To see if the Town will authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2002 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Compensating balances are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in return for which the bank agrees to perform certain services for the depositor. In order to incorporate such compensating balance agreements into the local budget process, the Commonwealth passed a law in 1986 mandating that all such arrangements be authorized by Town Meeting on an annual basis.

Funds have been included in the Treasurer's FY2002 budget to pay for these services directly and the Treasurer does not anticipate using this procedure at this time. This authorization, however, will give the Treasurer the flexibility to enter into such agreements if it should be in the best interest of the Town.

The Board unanimously recommends FAVORABLE ACTION on the following vote.

VOTED: That the Town authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2002 in accordance with General Laws Chapter 44, Section 53F.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Under a 1986 state law, Town Treasurers may not enter into a compensating balance agreement without an annual authorization from Town Meeting. Under a compensating balance agreement, the Town receives no-fee banking services in exchange for agreeing to maintain a specified level of deposits in an interest-free account.

DISCUSSION

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

RECOMMENDATION

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

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ARTICLE 3

THIRD ARTICLE

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

- 1) Special Appropriation Closeouts
- 2) Public Safety Debt Rescission – Bond Authorization, in the amount of \$3,727,500, for the construction of the Public Safety Building, authorized in Article 2B of the November 14, 2000 Town Meeting, to be rescinded.
- 3) Water Main Debt Rescission – Bond Authorization, in the amount of \$3,213 for the construction of Water Mains, authorized in Article 6 Item 88 of the May 25, 1999 Town Meeting, to be rescinded.

SELECTMEN'S RECOMMENDATION

The Comptroller has furnished the tables which appear after the Advisory Committee's report and detail the status of capital projects and special appropriations broken out by those which are debt financed and those which are funded with current revenues.

Under state statutes, any revenue funds declared surplus must be closed out to free cash at the end of the fiscal year. No action by Town Meeting is required. Surplus or unneeded funds from bond financed projects may be appropriated by Town Meeting for any purpose for which a loan may be taken only under a warrant article calling for an appropriation which meets these requirements.

This article also proposes the rescission of two previously approved bond authorizations. They are described below:

- 1.) This past Fall, Town Meeting approved a bond authorization in the amount of \$7,455,000 for the Police/Fire Headquarters renovation project. Since that time, the Town had its FY00 Free Cash (for use in FY02) certified at \$12,157,308, an amount higher than anticipated. In an effort to relieve some of the pressure on the Capital Improvements Program (CIP), this additional Free Cash was used to pay

for projects with cash, including one-half of the Police/Fire Headquarters Project. This rescission eliminates debt service on \$3,727,500, a fiscally prudent decision.

- 2.) The \$3,213 balance in the Water Main bond authorization is a residual of a \$2,800,000 fiscal year 1999 authorization that was funded by a \$234,196 MWRA grant, a \$709,591 interest free loan, and a \$1,760,000 general obligation bond. Since the balance remaining is less than \$5,000, the typical serial bond denomination, the Town's financial advisor, Fleet Financial Services, recommended that this amount be rescinded.

The Selectmen unanimously recommend FAVORABLE ACTION on the following vote.

VOTED: That the Town rescind the unused portion of the following prior borrowing authorizations:

- 1) Public Safety Debt Rescission – Bond Authorization, in the amount of \$3,727,500, for the construction of the Public Safety Building, authorized in Article 2B of the November 14, 2000 Town Meeting, to be rescinded.
- 2) Water Main Debt Rescission – Bond Authorization, in the amount of \$3,213 for the construction of Water Mains, authorized in Article 6 Item 88 of the May 25, 1999 Town Meeting, to be rescinded.

ADVISORY COMMITTEE'S RECOMMENDATION

DISCUSSION

The list of appropriations to be closed out will be presented for informational purposes only; no action by Town Meeting is required or recommended.

There are two debt-financed project authorizations that can be rescinded. The Police and Fire Public Safety Headquarters project currently under construction has a total bonded debt authorization of \$7,455,000. The Deputy Town Administrator has opted to fund one-half of this amount, \$3,727,500, from other available funds in FY2002, and thus save the Town borrowing costs. This is possible due to an unexpectedly large amount of free cash that has been certified for the coming fiscal year.

There is also a \$3,213 balance from a 1999 Water Main project that resulted from a portion of this project being funded by an MWRA grant and a zero interest loan. Since the remainder of the available authorization is less than \$5000, it is no longer beneficial to include it in a future bond sale.

RECOMMENDATION

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

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ARTICLE 4

FOURTH ARTICLE

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

This article is submitted annually to cover any unpaid bills from prior years; however, as of this date, no bills have been submitted.

State statutes provide that unpaid bills from previous fiscal years may not be paid from the current year's appropriations without the specific approval of Town Meeting.

The Selectmen unanimously recommend NO ACTION on this article.

ADVISORY COMMITTEE'S RECOMMENDATION

RECOMMENDATION

No unpaid bills of prior years have been submitted thus far. Therefore, the Advisory Committee unanimously recommends a vote of NO ACTION under Article 4.

ARTICLE 5

FIFTH ARTICLE

To see if the town will elect to establish an additional property tax exemption for fiscal year 2002 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, the elderly, the blind, and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved each year since FY89. The estimated cost is approximately \$52,000 and is funded from tax abatement overlay accounts. The law allows the Town to increase the exemptions by up to 100% as indicated on the following schedule:

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

The Selectmen unanimously recommend FAVORABLE ACTION on the following vote.

VOTED: That the town elect to establish an additional property tax exemption for fiscal year 2002 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

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

DISCUSSION

The proposed increases, tabulated below, require annual authorization and have been approved each year since FY1989. The Assessor estimates that the cost for FY2002 will be \$52,000 and has already built a reserve for this purpose in the FY2002 tax abatement overlay account.

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

RECOMMENDATION

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

ARTICLE 6

SIXTH ARTICLE

To see if the Town will accept the provisions of Section 53F1/2 in General Laws, Chapter 44, that authorizes the establishment of certain Enterprise Funds, and authorize the establishment of the Water and Sewer Enterprise Fund in accordance with Section 53F1/2 and the proposal submitted as a part of the FY2002 Program Budget for the Department of Public Works, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

At the November, 1989 Town Meeting, the Town accepted the provisions of Chapter 41, Section 69B, permitting the creation of what was then known as a water surplus account. The purpose of this action, as stated in the Combined Reports, was to provide the water and sewer operation with an interim step leading toward a more desirable "full water and sewer enterprise fund".

The primary reason for the delay in accepting the full enterprise authority was due to inadequate fixed asset valuations. The intent was to identify and record the value of the water and sewer capital infrastructure. These fixed assets have since been recorded and incorporated into the Town's annual audited financial statements.

Since that time, the AICPA's Governmental Accounting Standards Board (GASB) has adopted and mandated a new financial reporting standard (known as GASB statement #34) for most local government units in the Country. This new standard requires the Enterprise Fund treatment and accounting for all municipal business operations similar to the Brookline Water and Sewer operations. This treatment includes reporting on the operations in a manner very similar to private sector companies, including full accrual accounting and the actual recording of depreciation of the enterprise fixed assets.

Chapter 361 of the Acts of 1989 was adopted to further permit Massachusetts cities and towns, subject to local approval, to establish certain enterprise funds. This was in recognition of the trend that was developing along with appreciation of the value of the approach for fee-based activities. It calls for the establishment of a separate enterprise fund for the water operation and a separate enterprise fund for the sewer operation, which is reflected in the vote below.

It is also important to mention that the Commonwealth's Department of Revenue, Division of Local Services, which is the agency responsible for the oversight of all local government financial and accounting practices, also strongly recommends Enterprise Fund treatment for water and

sewer operations. The Massachusetts Water Resources Authority (MWRA) recommends this approach as well.

This article is both timely and a progressive step forward in making government financial reporting more useful. The Board of Selectmen unanimously recommends FAVORABLE ACTION on the following vote.

VOTED: To accept the provisions of Section 53F1/2 in General Laws, Chapter 44, that authorizes the establishment of certain Enterprise Funds, and authorize the establishment of a Water Enterprise Fund and a Sewer Enterprise Fund in accordance with Section 53F1/2 and the proposal submitted as a part of the FY2002 Program Budget for the Department of Public Works.

ADVISORY COMMITTEE'S RECOMMENDATION

Background

In 1989 the Town made a promise to Town Meeting to establish an Enterprise Fund for the Water and Sewer Department to improve the method of accounting procedures. However, Massachusetts law did not permit municipalities to enact an Enterprise Fund until recently. The Water and Sewer Department is now fulfilling that promise.

Discussion

An Enterprise Fund establishes an accrual method of accounting just as the private sector does currently. This accounting procedure is now required of municipalities by the National Government Accounting Standard. All revenues and expenses are accrued. Equipment and capital improvements are depreciated by the straight line method of accounting. The MWRA and the Massachusetts Department of Revenue prefer this method of accounting from all municipalities that have Water and Sewer Department. By definition, the book value of capital improvements is the initial cost of the asset minus its depreciation. A depreciation schedule is then determined by taking the asset cost minus the salvage value and dividing the difference by the number of years of the asset's useful life. The useful life of the water and sewer system is considered to be 40 years by the town. This method of tracking the actual book value of the water and sewer system and equipment, better describe the actual value of the asset from an accounting point of view.

Currently, municipal governments under Massachusetts law are required to generate their annual financial statements under the regulations of the Government Accounting Standards Board (GASB). This new requirement essentially standardizes all financial statements used in the public sector. GASB requires a full accrual basis of accounting for certain operations that are

similar to the private sector enterprises (i.e. Water and Sewer Enterprise Fund). The accounting is somewhat different than before in that the old method of accounting would reduce the outstanding bond issues reported on the Town's financial statements instead of using book values to describe the value of the asset. Now with the new method of accounting, capital improvements are depreciated (i.e. relining of pipes, snow plows) over time just like in the private sector. The Town will recalculate the depreciation schedules for all the existing equipment and systems the Water and Sewer Department has under its budget.

The town has been working towards this goal for the last ten years. No organizational change or cost increases will be incurred.

Recommendation

The Advisory Committee unanimously recommends FAVORABLE ACTION on the vote offered by the Selectmen.

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ARTICLE 7SEVENTH ARTICLE

To see if the Town will:

A.) Fiscal Year 2002 Budget

Appropriate the sums, or any other sum or sums, requested or proposed by the Selectmen or by any other officer, board or committee, for the fiscal year 2002 budget, including without limiting the foregoing, all town expenses and purposes, debt and interest, out of state travel, operating expenses, stabilization fund as provided for in General Laws Chapter 41, Section 108; authorize the continuation of the recreation revolving fund in accordance with G.L. Chapter 44, Section 53E ½, and the Water and Sewer Enterprise Fund in accordance with G.L. Chapter 44, Section 53F ½; and provide for a reserve fund.

B.) Fiscal Year 2002 Special Appropriations

Appropriate sums of money for the following special purposes:

- 1.) Appropriate \$50,000 or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for upgrading the Town Hall facility.
- 2.) Appropriate \$25,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for the improvement of park comfort stations.
- 3.) Appropriate \$125,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for furnishings and equipment for Town Buildings.
- 4.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removing asbestos from Town-owned buildings.
- 5.) Appropriate \$35,000, or any other sum, to be expended under the direction of the Planning and Community Development Director, with the approval of the Board of Selectmen, for the planning and purchase of a Public Event Kiosk.

- 6.) Appropriate \$20,000, or any other sum, to be expended under the direction of the Planning and Community Development Director, with the approval of the Board of Selectmen, for a Facade Improvement Program.
- 7.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Planning and Community Development Director, with the approval of the Board of Selectmen, for streetscape / Civic Space.
- 8.) Appropriate \$3,727,500, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for improvements to the Public Safety Building.
- 9.) Appropriate \$300,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a Fire Engine.
- 10.) Appropriate \$60,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a rescue truck.
- 11.) Appropriate \$28,000 or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a pick-up truck.
- 12.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for the purpose of moving the Fire department vehicle maintenance shop from Station #1 to Station #4.
- 13.) Appropriate \$20,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with approval of the Board of Selectmen, for signal modifications at Thayer / Washington Street.
- 14.) Appropriate \$15,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for a pedestrian signal at 61 Park Street.
- 15.) Appropriate \$208,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for plans, for specifications and for the construction of the Hammond / Heath Street signal.
- 16.) Appropriate \$75,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for signal modifications at Longwood / Kent Streets.

- 17.) Appropriate \$90,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the installation of new traffic signals at Washington / Park Streets.
- 18.) Appropriate \$1,000,200, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.
- 19.) Appropriate \$508,591, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.
- 20.) Appropriate \$205,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for traffic calming studies and improvements.
- 21.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for sidewalk reconstruction.
- 22.) Appropriate \$200,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for a Sidewalk Betterment Revolving Fund.
- 23.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Pathway Reconstruction.
- 24.) Appropriate \$35,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the Chestnut Street Drain / Willow Pond Environmental controls.
- 25.) Appropriate \$30,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Baker School Pathway improvements.
- 26.) Appropriate \$300,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Park and Recreation Commission and the Board of Selectmen, for improvements at Larz Anderson Park.

- 27.) Appropriate \$268,500, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Park and Recreation Commission and the Board of Selectmen, for renovation of playground equipment, fields and fencing.
- 28.) Appropriate \$25,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Park and Recreation Commission and the Board of Selectmen, for a Tree and Shrub Management program.
- 29.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Park and Recreation Commission and the Board of Selectmen, for the development of a Park Land / Open Space Master Plan.
- 30.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and Tree Planting Committee, for the removal and replacement of street trees.
- 31.) Appropriate \$75,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for forestry restoration work.
- 32.) Appropriate \$120,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for rehabilitation of Town / School grounds.
- 33.) Appropriate \$40,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the removal and replacement of Hemlock trees.
- 34.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Park and Recreation Commission and the Board of Selectmen, for improvements to the Skating Rink.
- 35.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Park and Recreation Commission and the Board of Selectmen, for improvements to the Swimming Pool Showers.
- 36.) Appropriate \$800,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Park and Recreation Commission and the Board of Selectmen, for improvements to the Soule Recreation Center.

- 37.) Appropriate \$25,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the School Committee and the Board of Selectmen, for furniture upgrades.
- 38.) Appropriate \$200,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the School Committee and the Board of Selectmen, for Network Wiring in school buildings.
- 39.) Appropriate \$130,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the School Committee and the Board of Selectmen, for miscellaneous repairs to the High School.
- 40.) Appropriate \$1,353,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the School Committee and the Board of Selectmen, for Pierce School improvements.
- 41.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the School Committee and the Board of Selectmen, for the upgrade of the Faculty Area at the Heath School.
- 42.) Appropriate \$225,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Park and Recreation Commission and the Board of Selectmen, for improvements to the Lynch Recreation Center.
- 43.) Appropriate \$140,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the Singletree Tank rehabilitation.
- 44.) Appropriate \$6,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the construction of sewers and sewerage systems and for the lining of sewers constructed for sanitary drainage purposes and for sewage disposal.
- 45.) Appropriate \$960,000, or any other sum, to be expended under the direction of the Recreation Director, with approval of the Park and Recreation Commission and the Board of Selectmen, for the construction and reconstruction of the Putterham Meadows Golf Course facilities.
- 46.) Appropriate \$1,880,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Park and Recreation Commission and the Board of Selectmen, for the construction and reconstruction, for remodeling, reconstructing or making extraordinary repairs to the Putterham Meadows Golf Course facilities.

- 47.) Appropriate \$18,065,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and School Committee, for remodeling, reconstructing or making extraordinary repairs to and for additions, where such additions increase the floor space, to the Lawrence School, and for the construction and reconstruction of the adjacent Longwood Park.

School Building - \$15,683,300

Longwood Park - \$ 454,000

Parking Deck - \$ 1,927,700

C.) Funding

And determine whether such appropriations shall be raised by taxation, transferred from available funds, provided by borrowing or provided by any combination of the foregoing, and authorize the leasing, leasing with an option to purchase, or the installment purchase of any equipment or any capital items; and authorize the Board of Selectmen, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants and aid from both federal and state sources and agencies for any of the purposes aforesaid, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

The Board of Selectmen is in agreement with the Advisory Committee on the FY2002 Town Budget. We recommend a budget that totals \$159,307,710 in expenditures. Within that is an operating budget in the amount of \$146,093,689, which represents an increase of \$6,057,982 (4.3%) over the current year. The budget also includes a Capital and Special Appropriations request of \$13,214,021, an increase of more than \$1.3 million from current year appropriations. This increase in special appropriations is due, in part, to a substantial increase in Free Cash levels, partially offset by the non-recurrence of the one-time revenue generated from the Ryder Cup and Overlay Surplus. The major categories of revenues and expenses are summarized as follows:

FY2002 GENERAL FUND OPERATING BUDGET SUMMARY			
	FY2002	\$ INCR./DECR.	% INCR./DECR.
REVENUE			
Property Tax	103,649,158	3,431,648	3.42%
Local Receipts *	17,187,907	1,142,407	7.12%
State Aid	19,919,390	965,015	5.09%
Free Cash	11,536,850	6,725,942	139.81%
Other Available Funds **	<u>7,014,404</u>	<u>(4,897,101)</u>	<u>-41.11%</u>
TOTAL REVENUE	159,307,710	7,367,912	4.85%
(LESS) NON-APPROPRIATED EXPENSES			
State & County Charges	5,859,755	(302,852)	-4.91%
Tax Abatement Overlay	1,573,369	(523,495)	-24.97%
Deficits & Judgments	150,000	(107,800)	-41.82%
Cherry Sheet Offsets	<u>1,171,140</u>	<u>0</u>	<u>0.00%</u>
TOTAL NON-APPROPRIATED EXPENSES	8,754,264	(934,147)	-9.64%
AMOUNT AVAILABLE FOR APPROPRIATION	150,553,446	8,302,059	5.84%
APPROPRIATIONS			
Town Departments	49,580,779	2,403,417	5.09%
School Department	50,409,724	2,915,845	6.14%
Non-Departmental	32,174,361	1,592,811	5.21%
Water and Sewer Enterprise Fund Overhead ***	4,789,762	122,510	2.62%
Golf Enterprise Fund Overhead ***	<u>384,800</u>	<u>(42,453)</u>	<u>-9.94%</u>
BUDGET SUBTOTAL	137,339,426	6,992,130	5.36%
Capital & Special Appropriations	<u>13,214,021</u>	<u>1,309,930</u>	<u>11.00%</u>
TOTAL APPROPRIATIONS	150,553,446	8,302,058	5.84%
BALANCE	0	0	
* To make an appropriate comparison, the Water and Sewer Revenue (\$18,024,299) is subtracted out of the FY01 "Local Receipts" figure.			
** To make an appropriate comparison, the Overhead Charges (\$4,692,252) is deposited into the FY01 "Other Available Funds" figure.			
*** These Overhead figures match the Water and Sewer Enterprise Reimbursement and Golf Enterprise Fund revenue sources found in the "Other Available Funds" revenue category.			

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There is no denying that we are now in the downturn in the economy that experts had been predicting. In the last twelve months, the Dow Jones Industrial average has dropped by more than 570 points, or 6.8%. The NASDAQ average dropped by 2,100 points, or 52.3%. The Federal Reserve Bank recently reduced short-term interest rates (specifically, the federal funds rate) for the fourth time since January, for a cumulative increase of 200 basis points (from 6.5% to 4.5%), in an attempt to fight against the “risks that are weighted mainly toward conditions that may generate economic weakness in the foreseeable future.”

While some current financial indicators indicate a slowdown, other indicators continue to contradict this view. Locally, the Town’s tax levy from New Growth remains strong. Unemployment and inflation, although beginning to grow, still remain at low levels. While the State Income Tax reduction will undoubtedly have a negative impact upon State Aid levels, tax cut adherents believe that it will bolster the State economy.

In the face of these contradictions, the Fiscal Year 2002 Budget is based upon a strategy of strengthening service delivery while positioning the community for changing economic conditions. The forecast is built upon sustainable revenue and reasonable expenditure

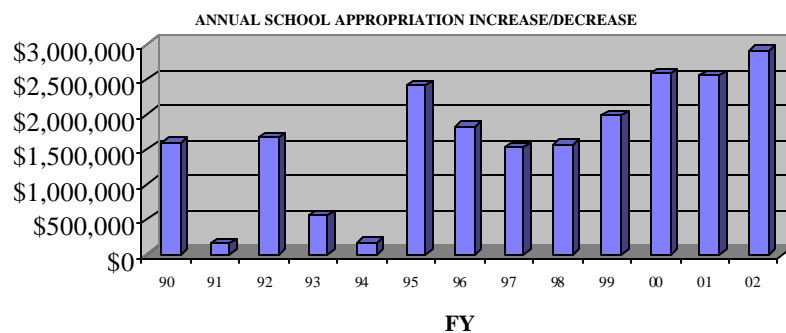
assumptions. It includes adjustments to the Reserve Fund policies as well as the Debt Management Plan. It continues the commitment to addressing the long-term liability of Retiree Group Health Insurance costs.

For the near term, it appears that the Town will enjoy an unprecedented opportunity to address many longstanding needs, because of the convergence of several favorable factors. First, as a result of the budgetary discipline demonstrated in recent years – limits on positions; labor contracts within ability to pay; tight management of fixed costs; etc. – the Town can take full benefit of the local revenue growth available from the economic upswing to date. “New growth” in property taxes allowed by Prop 2 ½ and increases in Local Receipts from investment earnings, fees, etc. are providing a greater level of flexibility within the constraints of Propositions 2 ½.

Second, group health rate increases, which jumped precipitously last year, are projected to be surprisingly modest for the upcoming fiscal year. Discretionary revenue allocated for group health is \$250,000 lower than initial projections. Third, local aid, as proposed by the Governor in House 1, is \$645,000 higher than initially projected. (However, it is important to note that the House Ways and Means (HWM) budget was not as favorable to the Town as House 1. Total local aid for Brookline in the HWM budget is \$347K less than in House 1.) And fourth, the Department of Revenue certified free cash at a level higher than anticipated.

The combined effects of a positive swing in operating projections of approximately \$1 million for the coming fiscal year and of the favorable surplus from last fiscal year enables the Town to address a number of priorities to a greater extent than any time in the previous decade:

?? Funding for schools is increased by \$2,915,000 (or 6.14%), the largest dollar increase ever for education (see chart below);



?? Education technology is earmarked for a \$150,000 permanent base budget increase, the largest for this purpose since the 1994 override;

?? E-government initiatives are increased by \$100,000;

?? Police Department staffing is increased by 6 civilian dispatcher positions, freeing up 11 patrol officers for other duties;

- ?? Fire apparatus will be replaced on a significantly accelerated schedule with four new units (more than half the frontline equipment) to be replaced in the next five years;
- ?? Town funds for the first time ever, in the amount of \$1 million, are earmarked for housing development;
- ?? Zone management will be instituted for parks and open space operations with the establishment of three Zone Manager positions;
- ?? Additional funds are set aside for retiree group health;
- ?? A new, long-term sidewalk replacement program is proposed targeting \$2 million in work over the next 10 years;
- ?? Traffic calming will increase by \$205,000 next year for a total commitment of more than \$1.5 million through FY07;
- ?? Direct assistance for town business is increased through the continuation of the commercial areas marketing program.

These and many other initiatives in the FY02 Budget complement the Town's standing commitment to address capital needs. Because of the favorable free cash certification, the timetable for funding many critical infrastructure, facilities, and equipment needs has been advanced. In addition, essential services across the board are strengthened for public health, cultural, recreational, and social programs.

With the anticipated flexibility projected for FY02, it is all the more essential to maintain the fiscal policies that have helped bring the Town to its current position. Without adherence to them, the Town could see its favorable fiscal position change rapidly, given the current slowdown in the economy and the contradictory long-term economic indicators.

FISCAL POLICIES

The FY 2002 Budget builds upon the assets that have been developed in recent years by the strict observance of the Selectmen's Financial Improvement Program and Budget Guidelines, which include:

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

Sustainable Revenue and Reasonable Expenditure Assumptions - At the time that the budget strategy was evolving, it was clear that the Town would experience a relatively higher than anticipated level of Free Cash, generated primarily in the area of Local Receipts. Although the typical impulse would be to substantially increase Local Receipt projections for use in future year budgets, a careful analysis was undertaken to determine, in the event of a slowdown in the economy, what level of Local Receipts would be sustainable. This analysis included a review of how an increase in Local Receipts would affect future year capital funding.

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

The result of these efforts was the presentation of a long-range Financial Forecast in November, 2000 projecting a balanced FY 2002 Budget and addressing many long-term needs of the various Town constituencies.

Reserve Policies - Earlier this fiscal year, a review of the Town's Reserve Fund policies was concluded, which identified areas of possible adjustment. The FY 2002 Budget includes changes to the appropriated reserves, non-appropriated reserves, Capital Stabilization Fund, Catastrophe and Liability Fund, and Retiree Group Health Insurance Trust.

- **Appropriated Budget Reserve** – In order to strengthen the ability of the Board of Selectmen and Advisory Committee to quickly resolve financial problems, while maintaining speed and flexibility in the community's crisis management protocol, this reserve is funded at the full amount (.75% of prior year net revenue).

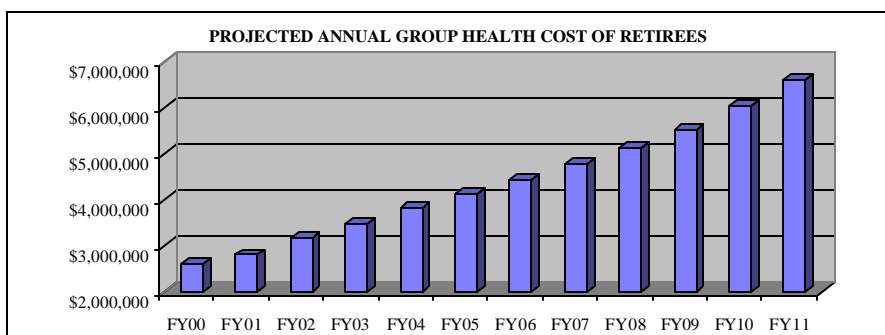
- **Non-Appropriated Budget Reserve** – In review of the past experience in using this reserve, a reduction in the annual set aside from 0.75% to 0.5% is included in this plan.

- **Capital Stabilization Fund** – The existing policy calls for a level of funding equal to one percent of the replacement value of municipal buildings and content. The purpose of the fund is to provide revenue for capital improvements if Free Cash were to fall below \$2 million in any year. The Town has now updated the value of its municipal buildings and contents at the present value of \$315 million. Due to high investment yield, the fund currently has assets of more than \$3.4 million. An adjustment to the present policy, allowing the fund value to rise above the previously established ceiling, and provide at least four years of reserve, is proposed.

- **Catastrophe and Liability Fund** – The purpose of this fund is to protect the community against major facility disaster or from a substantial negative financial impact of a lawsuit. The funding level goal is one percent of the previous year net revenue. Currently, the fund is at 60% of the funding goal. The FY 2002 Budget calls for the savings from the previously discussed non-

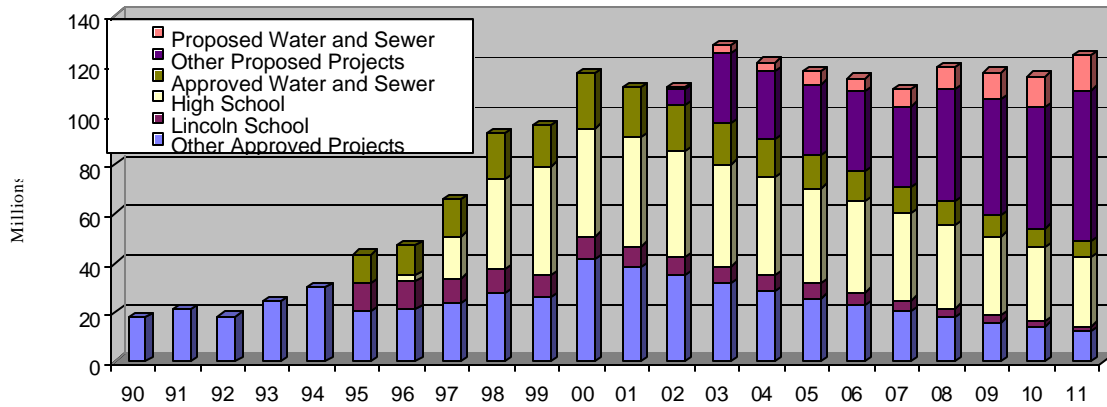
appropriated reserve being diverted to this fund. It is anticipated that in adopting this strategy, supplemented by Free Cash, the Town can meet its funding goal this year.

· **Retiree Group Health Insurance Trust** – According to a 1998 actuarial study, the Town has an un-funded post-retirement benefit obligation estimated at \$94 million. In order to begin to address this issue, the Town adopted a strategy within the FY2000 Budget to divert savings from Non-contributory Retirement to this fund. Un-matched health insurance appropriations were also diverted to the fund at the end of the fiscal year. In order to continue the progress made in this area, several options have been included in the budget. We shall proceed with the transfer of funds from the prior Master Medical Trust Fund to the Retiree Group Health Trust Fund. When annual experience allows, unmatched funds will continue to be transferred into the fund. Finally, it is proposed that once both the Capital Stabilization Fund and Catastrophe and Liability Fund meet Town funding goals, savings from the non-appropriated reserve be diverted to this fund.



Debt Management Plan Adjustments – The Town policy regarding capital financing is appropriate for a community of the size and needs of the Town of Brookline. Each year, 5.5% of prior year net revenue is dedicated to the improvement of capital and infrastructure. The guideline calls for 4.25% to be derived from debt financing and 1.25% from tax financed sources. In recent years, a growing number of capital projects have received approval for debt financing. In the next few years, projects such as the Baker School, Public Safety Building, Library, landfill closure/park development, and the Lawrence School will all add to the Town’s current debt levels. The effect of this rapid build up of debt is the concurrent reduction in the tax-financed portion of the capital funding plan in order to remain within the 5.5% funding cap. Expansion beyond this funding level can lead to a transfer of allocations from direct services to debt service. This places a great deal of pressure on the Town’s ability to continue to provide services at appropriate levels. In order to keep within the Capital Finance Guidelines and to position the community in the event of a downturn in the economy, the FY 2002 Budget uses the higher than anticipated level of Free Cash to pay for smaller projects that had previously been scheduled for future year debt financing. In advancing these projects to FY 2002, eliminating the debt service associated with these projects, and lowering the debt term of the remaining debt financed projects, the Town will be able to re-balance its Debt Management Plan to meet future capital needs, while maintaining the capital financing policies.

TOTAL OUTSTANDING DEBT (as of June 30 each year)



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

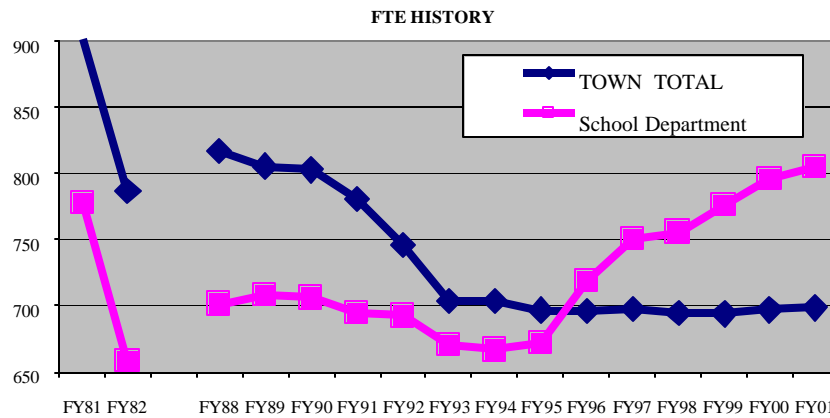
Town / School Partnership Agreement – Crucial to our annual financial plan is the Town / School Partnership Agreement, signed by the Superintendent and Town Administrator and approved by both the Board of Selectmen and School Committee in 1995. Perhaps unique in Massachusetts’s local government, the Partnership Agreement affirms the primacy of education in the annual budget process. The Agreement establishes the objective of committing planned levels of operating revenues for education regardless of the extent of other demands. The Partnership Agreement commits to education 50% of virtually all revenue that is not dedicated to fixed costs, with the remainder then allocated to other Town operating priorities.

	INCREASE FY98-FY99		INCREASE FY99-FY00		INCREASE FY00-FY01		INCREASE FY01-FY02 (est.)	
	\$\$	%	\$\$	%	\$\$	%	\$\$	%
TOWN	1,651,839	4.3%	1,871,387	4.6%	2,091,299	5.0%	2,404,795	5.4%
SCHOOL	2,081,617	4.8%	2,530,410	5.6%	2,661,379	5.6%	2,914,467	6.1%

* School figures include the School Plant, Heating/Light Plant, and the School’s portion (50%) of the new payroll system costs in FY98 (\$31,700).

Collective Bargaining Guidelines – Collective Bargaining agreements with all town and unions expire at the end of FY 2002. School contracts expire the following year. Appropriate funding has been allocated within the budget to satisfy the terms of the agreements. Given the uncertainty of the economy in future years, and the spiraling cost of personnel benefits, collective bargaining policies have been adopted by the Selectmen to reflect not only cost of living indices and settlements in other communities, but also the Town’s financial position.

No Net Increase in Town Positions – Several years ago, the Selectmen adopted a position freeze policy on the number of Town personnel. This policy establishes a cap on the total number of Town (non-school) personnel. The purpose of this policy is to ensure that Town staffing corresponds to the Proposition 2 ½ cap on town revenue, so that, even in favorable economic periods, staffing is not increased to unsustainable levels. Due to the implementation of the Public Safety Joint Dispatch operation, personnel levels within the FY 2002 Town Operating Budget will experience a slight increase. The total number of Town personnel will rise to 704 positions. It shall be a goal to reduce this level below 700 through attrition in future year budgets.



Free Cash - The Board’s policy regarding Free Cash (that portion of undesignated fund balance certified as available for appropriation by the State Department of Revenue) requires that after setting aside free cash in the amount of 0.75% of prior year net revenue as part of budget/strategic reserve funds, free cash will be used exclusively to fund capital or other one-time projects. Free cash was certified by DOR at \$12,157,308 for the fiscal year June 30, 2000. A historical chart of Free Cash is shown below.

ANNUAL FREE CASH				
Certified by the State Department of Revenue (in thousands)				
FY 88	FY 89	FY 90	FY 91	FY 92
1,581.7	99.8	3,024.6	(2,571.5)	(2,378.8)
FY 93	FY 94	FY 95	FY 96	FY 97
(87.8)	1,500.3	3,078.6	3,897.0	4,412.9
	FY 98	FY 99	FY 00	
	7,506.5	5,783.4	12,157.3	

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Override Requirements of 1994 – This Budget preserves the 1994 override allocations in the budget base. In the Town budget, funding in the amount of \$1 million for capital equipment and \$200,000 for building maintenance are earmarked once again. Likewise, in the School budget, the override funding of \$1.3 million is earmarked for the intended purpose of staffing, technology, supplies, and building maintenance.

BUDGET OVERVIEW

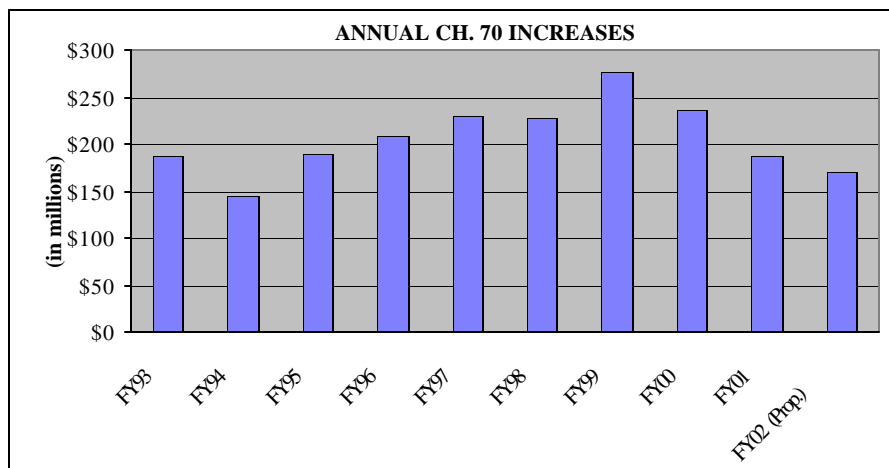
In the last few years, local government budget discussions have revolved around three major cost centers: collective bargaining, group health insurance, and special education, as well as one revenue source, Local Aid. The FY 2002 Budget adds two more concerns to this list: debt service and energy costs.

Collective Bargaining – Using collective bargaining guidelines, which take into consideration cost of living indices, community comparisons, and the Town’s ability to pay, all collective bargaining agreements were settled for the two-year period beginning July 1, 2000 and ending June 30, 2002. In order to fund these agreements at the agreed levels, the amount of \$2.4 million was allocated to collective bargaining for both Town and School labor agreements.

Group Health Insurance – The financial turmoil in the Managed Care industry continues to drive inflation of group health insurance to rates far exceeding the growth in government revenue. The financial difficulty, which Harvard Pilgrim Health Care (HPHC) underwent last fiscal year, is beginning to subside. It now appears that HPHC will remain a player in the provision of health care. While many other employers continue to experience double-digit increases, HPHC has offered the Town a rate increase for its premium-based product of 1% for next year. Blue Cross / Blue Shield, recovering from their own financial problems, has priced their self-insured program at a 5% increase for the next year. This unexpected savings has been offset, in part, by a significant rise in the health plan employee enrollment of the School Department. As employees retire, particularly teachers receiving incentives to retire early, they remain on the Town’s group health program before being covered by Medicare, if eligible, at age 65. Replacing the retired employee further adds to the group insurance enrollment. Finally, as School personnel levels rise

to match the needs of Special Education, the School Department, through its share of fixed costs, absorbs a greater cost of group insurance.

Special Education – The Town of Brookline makes an extraordinary commitment to Special Education funding. Under the Town/School Partnership Agreement, SPED is considered a fixed cost, just as debt service obligations are considered a fixed cost. It is unlikely that any other municipality in the state makes this type of commitment to the funding of special education. Included in the FY 2002 Budget is a commitment of an additional \$730,000 for this purpose. This follows increases of \$600,000 in FY 2001 and \$700,000 in FY 2000.



Local Aid – With the passage of the initiative petition that lowered the state income tax from 5.85% to 5%, much consideration has gone into what the impact might be on Local Aid to cities and towns. The Governor’s proposed budget includes changes to the current formula as well as an increase of approximately \$600,000, or about \$100/student, in Chapter 70 funding. The formula change is actually less favorable to Brookline than the minimum aid approach of last year. While this increase falls short of the FY 2001 commitment of \$175 per student, it does exceed initial projections. Unfortunately, the second phase of the state budget process was even less favorable to the Town. While the House Ways and Means (HWM) budget actually recommends \$30M more in Chapter 70 funding than House 1, Brookline actually receives \$247K less than in the Governor’s proposal. In addition, the \$100K included in House 1 for MCAS Assistance as a Cheery Sheet item does not materialize in the HWM budget (it remains a grant program). Therefore, the HWM budget results in a decrease of \$347K in total State Aid.

At this time, we continue to urge adoption of the budget as presented, despite the volatile local aid scenario. Amendments to the HWM budget are to be offered from the floor. Further, it is possible that the Senate might propose increasing the total Chapter 70 appropriation. Finally, as in many previous years, the Legislature’s budget deliberations might not conclude until after the close of the current fiscal year. If adjustments in the Brookline budget are warranted, they can be made at the Fall Special Town Meeting.

Debt Service – With the approval of debt financing for several large capital projects, debt service is expected to rise. In FY 2002, this increase is minimal. In FY 2003, debt service is expected to increase by approximately \$1.6 million. Again in FY 2005, with the sale of debt for the Lawrence School, debt service is expected to increase by more than \$1.1 million. As part of the capital planning and debt management process, steps have been taken to slow new debt commitments until debt levels fall back to within debt guidelines established by financial policy.

Energy – At a time of rising energy prices, it will be a challenge to maintain a strong conservation program to offset rapidly increasing prices. A long-term natural gas contract, due to expire during FY 2002, will be negotiated in late spring, during a historically low energy cost
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period. It is believed that this will lead to a contract that includes prices similar to the current contract.

The current electricity contract, which has been extremely favorable for the Town, expires in FY 2003. As a number of municipal buildings are refurbished, it will be important to monitor consumption use and adopt stringent conservation efforts to stabilize future price increases.

Water and Sewer Enterprise Fund – This budget is predicated upon the establishment of a Water Enterprise Fund and a Sewer Enterprise Fund. Article 6 of this 2001 Annual Town Meeting asks Town Meeting to accept the provisions of G.L. Ch. 44, Sec. 53F ½, which creates these enterprise funds. The purpose is to formally segregate revenues associated with those operations from the General Fund and to comply with GASB Statement #34. Approval was given by Town Meeting in November, 1989 to accept G.L. Ch. 41, Sec. 69B that allowed for the creation of a Special Revenue Fund in anticipation of eventual consideration of a full enterprise arrangement. Please see the Selectmen's Recommendation for Article 6 for a full description of the reasoning behind the establishment of the formal Enterprise Funds.

CAPITAL IMPROVEMENT PROGRAM

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

The recommended FY 2002 – FY 2007 CIP complies with the Board of Selectmen's CIP policies, including the key provision of dedicating between 5% and 6% of the Town's net revenue plus available Free Cash. The CIP policies define what a capital improvement project is, how projects are evaluated and prioritized, and how the CIP is financed.

The recommended CIP calls for an investment of \$83.6 million over the next six years, for an average of \$13.9 million per year. This continues the Town's commitment to maintain and improve its infrastructure and to reduce the backlog of projects requiring funding. This compares with the figure of \$10.5 million per year noted by the CIP Policy Committee as the necessary spending level to maintain the Town's capital infrastructure. The total appropriations from all financial sources by year and by project category are shown on the table below.

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	Total	Prior Year	Proposed 2002	Future Capital Improvement Plan					Future Years
				2003	2004	2005	2006	2007	
GRAND-TOTAL BY ALLOCATION									
General Government	11,160,000	315,000	450,000	845,000	5,100,000	235,000	100,000	3,400,000	715,000
Economic Development	1,315,000	-	105,000	400,000	310,000	-	-	-	500,000
Public Safety	13,412,000	7,772,500	4,215,500	335,000	149,000	505,000	375,000	60,000	-
Library	12,696,000	11,323,000	677,000	82,500	190,500	250,000	-	-	173,000
DPW - Transportation	2,003,000	70,000	418,000	300,000	660,000	520,000	25,000	10,000	-
Engineering/Highway	23,620,891	2,712,691	2,228,200	10,803,000	2,163,000	1,908,000	1,808,000	1,898,000	100,000
Water / Sewer	8,840,000	1,200,000	2,140,000	800,000	2,050,000	550,000	2,050,000	50,000	-
Parks & Playgrounds	4,953,500	950,000	843,500	875,000	340,000	250,000	275,000	705,000	715,000
Conservation / Open Space	3,220,000	680,000	335,000	545,000	340,000	300,000	300,000	300,000	420,000
Recreation	6,305,000	1,000,000	1,800,000	670,000	670,000	560,000	355,000	555,000	695,000
Public Schools	59,176,000	1,242,000	17,133,000	4,973,000	965,000	475,000	275,000	1,590,000	32,523,000
Grand Total	146,701,391	27,265,191	30,345,200	20,628,500	12,937,500	5,553,000	5,563,000	8,568,000	35,841,000

Developing the CIP so as to stay within the Board's CIP financing policies was particularly challenging this year. In recent years the Town has committed debt financing for a number of large projects, including the High School, Baker School, the Public Safety Building, the Main Library, landfill closure, the Lawrence School, and more. It is now believed that debt service will exceed \$150 million with an annual debt service cost of \$15.4 million in FY 2005. While it is important that we maintain our commitment to the CIP, it is equally important that we be committed to staying within our Capital Financing Policies. The Town has reached its funding goal of between 5% and 6% annually committed to capital in the area of debt financing alone. Give the rapid acceleration in our debt, and given that we have the highest debt burden per capita of the Aaa communities in the state, it is crucial that we maintain fiscal discipline in this process. In order to remain within the Capital Financing Policies, there will be little or no tax financed capital projects in the next few years. There is expected to be sufficient revenue from Free Cash, CDBG and State/Federal Grants to provide adequate funding during this period. This will allow the Town the opportunity to pay down some of the existing debt service and re-establish the tax financed source of capital funding.

The Town has a higher than expected level of Free Cash certified for the fiscal year ending June 30, 2000. The Budget calls for the acceleration of capital projects, previously committed to debt financing in future years, to be advanced to FY 2002 and paid from Free Cash. This will allow a re-balancing of the Debt Finance Plan to be in compliance with the Capital Financing Policies.

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

?? Public Safety Facility	\$11.5 Million
?? Main Library	\$13 Million
?? Landfill / Park	\$3.5 Million
?? Lawrence School	\$17.1 Million
?? Various School Improvements	\$11.0 Million

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?? Town Hall Rehab	\$5.5 Million
?? Health Building	\$3.3 Million
?? Parks, Open Space, Rec.	\$ 8.0 Million
?? Streets, Sidewalk, Traffic	\$19.9 Million

Given the extraordinary tightening of the housing market and the anticipated higher levels of free cash, the Finance Plan includes an allocation to the Town's Housing Trust Fund of a one-time appropriation of \$1 million.

Taking advantage of the high level of Free Cash, it is recommended that \$250,000 be appropriated to the Capital Stabilization Fund. This appropriation, along with expected interest earnings, should bring the fund balance to more than \$4 million, or a four-year reserve, by the end of FY 2002.

To help strengthen the Town's financial position as it is affected by the expected down turn in the economy, it is recommended that \$410,229 be appropriated from Free Cash and Tax Financed funding to the Catastrophe and Liability Trust Fund. This will bring the fund balance to more than \$1.2 million dollars or 100% of the target funding level.

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

LONG RANGE FINANCIAL PROJECTION

The cornerstone of our strategic budgeting process is the long-range financial projection. Based upon an analysis of the internal and external factors impacting the Town's operations and finances, we have prepared the long-range projection, found on page II-29 in the Town

Administrator's Financial Plan, covering the period FY 2002 through FY 2006. The Town is facing a lower but escalating deficit position for FY 2003 and beyond. Collective bargaining costs, the continued commitment to capital investment, and limitations on local aid, coupled with the structural shortfall caused by Proposition 2½, portend a deficit, which will grow to \$1.8 million by FY 2006.

With a view towards an uncertain future, the Plan's underlying strategy is to build budgets based upon sustainable revenue and reasonable expenditure assumptions. New discretionary programs have been added as greater efficiencies in existing portions of the budget have been achieved. The remaining discretionary funds have been allocated to non-recurring cost items such as capital equipment, supplies, and building repairs. Reserves have been maintained at recommended levels.

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This has resulted in no significant impact to the overall budget base. Some of the trends and assumptions upon which the projections are based are:

REVENUES

Overall, revenue increases (exclusive of Free Cash) are expected to range between \$5.3 and \$5.4 million, or approximately 3.4%. Excluding water and sewer enterprise revenues and tax/reimbursements related to debt exclusions, revenue will increase by approximately \$5 million or 3.3%.

? The Tax Levy is projected to increase an average of 3.4% per year. In addition to the standard 2.5% increased allowed under Proposition 2 ½, new growth in the tax levy resulting from building construction and condominium conversions is increased an average of \$1 million per year. An amount equal to debt service overrides less any School Building Assistance aid is also included in the calculation.

? Local Receipts, exclusive of water and sewer revenues, are expected to increase by \$1 million, or 7% for FY 2002, and approximately \$200,000, or 1.4% per year thereafter. Water and sewer revenue increases by 4% to 5% each year and is driven primarily by the MWRA Assessment.

? State Aid, exclusive of School Building Assistance, is expected to increase by \$50 per student in Chapter 70 funds, or \$300,000 per year, starting in FY 2003. The Police Career Incentive reimbursement is expected to increase based upon a formula of 50% of the previous year costs. SBAP is expected to increase in FY 2003 for reimbursement for the Baker School project and again in FY 2005 in anticipated reimbursement for the Lawrence School project. All other State Aid categories are level funded throughout the term of the forecast.

? Free Cash, after deducting amounts for non-appropriated and strategic reserves, is used exclusively for the Capital Improvement Program. It is expected that \$11.5 million would be available for FY 2002. This would gradually decline to an amount of \$2 million in FY 2006.

? Other Available Funds, which included one-time Ryder Cup and Overlay Surplus funds in FY 2001, are expected to remain level throughout the term of this forecast.

EXPENSES

? The cost of Municipal Services is projected to increase by \$9.7 million from FY 2002 through FY 2007, an average of \$1.94 million per year. Of the total increase, \$7 million is attributable to the cost of collective bargaining and steps. The balance of the increase, or \$540,000 per year, is for all other fixed cost increases such as energy, refuse disposal, capital outlays, etc.

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? The cost of School Services is projected to increase by \$10.7 million from FY 2002 through FY 2006, or an average of \$2.2 million per year. Collective bargaining and steps account for \$7.3 million of the total. The balance of the increase, or \$800,000 per year, is for Special Education Tuition's, transportation, and education supply.

? Water and Sewer service costs are expected to increase by \$4.3 million, or 23%, from FY 2002 through FY 2006. The MWRA assessment increase accounts for nearly all of this increase. Year to year increases average approximately 4%.

? Personnel Benefits, which include group health and life, pensions, Medicare, workers compensation, and unemployment compensation, are expected to increase by approximately 6.2% per year.

? Debt Service figures assume full implementation of the FY 2002-FY2007 CIP which includes the Public Safety Building, Main Library, Baker School, Landfill Closure, Lawrence School, Town Hall building improvements, and Health Department building improvements. The debt service amounts comply with the Board's CIP financing policies that require 4% to 5% of net revenues to be allocated for this purpose. Both Water/Sewer and Golf Debt are included in enterprise revenues paid to the Town in the form of overhead charges.

? The Revenue Financed CIP policy faces tremendous pressure in the next few years. This policy establishes a guideline of 1.25-% revenue financed and 4.25% debt financed capital funding each year. Debt service levels are predicted to be greater than the 4.25% goal in each of the next five years. When debt service rises above the 4.25% debt guideline, fewer funds are available from the revenue-financed category.

? Non-appropriated Expenses include State and County assessments, Cherry Sheet offset items, tax abatement overlay reserves, and court judgements. The two largest expenses are the MBTA assessment and the tax abatement overlay reserve. State and County assessments are expected to decline in each of the next five years by approximately \$160,000 per year due to a decrease in the

MBTA assessment. Due to declining requests for tax abatements, the tax abatement overlay reserve will be tied to an amount equal to 2% of the annual levy.

CONCLUSION

The Board of Selectmen is most pleased to report that the Board and the Advisory Committee are in total agreement on the FY02 budget. We believe that the budget takes reasonable advantage of short-term favorable conditions while protecting the Town's financial position against less favorable longer-term conditions (economic slowdowns, tax cut implementation, etc.). Accordingly, the Board of Selectmen unanimously recommend FAVORABLE ACTION on the vote offered by the Advisory Committee.

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ADVISORY COMMITTEE'S RECOMMENDATION

I. TOWN BUDGET

A. Overview

The FY2002 proposed budget is \$174,118,783. When you deduct the Water and Sewer Enterprise funds (\$18,821,106, minus \$4,789,762 in overhead) and the Golf Enterprise funds (\$1,164,530, minus \$384,800 in overhead), this gives us an operating budget of \$159,307,709. From that amount, \$8,754,264 of non-appropriated expenses that the Town is legally obligated to pay or put aside must be deducted. (These expenses include such things as the State and County charges and the Tax Abatement Overlay). This leaves **\$150,553,446** available for appropriation by this Town Meeting. It is an increase of 5.8% from FY2001.

Given this healthy increase, in part the result of a continuing robust local growth, the proposed budget is not only balanced, it is able to accommodate some growth in staff at both the Police Department and the School Department and the infusion of \$1 million of Town money into the Affordable Housing Trust Fund. Next year we are likely to see a significantly less favorable rate of growth due to the expected decrease in State Aid. The combined effects of the slowing economy, and consequently reduced state revenue from taxes and the implementation of the Income Tax roll-back, are likely to lead to a very noticeable decrease in money the Town receives from the State.

B. Long-term Financial Health

1. Fiscal Policies

After struggling and cutting services for several years in the wake of the state's adoption of Proposition 2 ½ (which limited the ability of cities and towns to increase real estate taxes to 2 ½ % of the previous year's tax levy, plus new growth, unless the Town voted to authorize an override of that limit), the Town heeded the recommendation of the Financial Planning Advisory Committee and established some disciplined fiscal policies. The Advisory Committee is strongly supportive of these policies which, together with the additional money provided by the 1994 General Override of \$2.5 million, have provided stability to the budgeting process, a method for financing the rehabilitation of our older buildings, a Partnership Agreement between the Town and Schools to work collaboratively on their budgets, and appropriate reserves to cover catastrophes and long-term obligations, such as the costs of providing health insurance to our

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retirees.

2. Reserve Funds

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

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

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

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

d. The Town has been financing its building projects such as the new Fire/Police Headquarters, part of the Library renovation, the Senior Center, and school rehabilitation projects partly from Free Cash and partly from selling bonds. In the event that the Town does experience

much lower Free Cash, ongoing building projects and other necessary capital improvements would not be jeopardized because we have a Capital Stabilization Fund of \$3.4 million to back the estimated \$315 million worth of municipal buildings and contents.

The Selectmen and Town Administrator reviewed the Reserve Fund policies this year and did make some adjustments to them, with which the Advisory Committee concurs. The Budget proposes the following:

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Appropriated Reserve Fund-This will continue to be set at .75% of the prior year's net revenue, at \$930,000 for FY2002. It is intended to be an operating reserve fund for unexpected costs. Expenditures from this fund require a majority vote of the Selectmen and then a majority vote of the Advisory Committee. In FY2001 to date, approximately 68 % of the \$875,000 in the fund has been spent, including \$362,000 for costs incurred by the Department of Public Works for snow and ice removal. Typically, there are also a number of additional requests for Reserve Funds at the end of the fiscal year.

Unappropriated Reserve Fund-In prior years, this fund, paid for with Free Cash, has also been set at an amount equal to the Appropriated Reserve Fund. It is to be used as an operating reserve in the event that the Appropriated Reserve Fund is fully expended and would require a vote of Town Meeting. After review this year, and in light of the fact that the Appropriated Reserve Fund has not been fully expended in the past decade, the Selectmen decided to reduce the size of the Unappropriated Reserve Fund to .5% of the prior year's net revenue.

Capital Stabilization Fund-This fund currently has assets of \$3.4 million and would provide revenue for capital improvements if Free Cash falls below \$2 million.

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

Retiree Group Health Insurance Trust-As discussed above, the Town is beginning to address its obligation which was identified as a \$94 million unfunded liability in a 1998 actuarial study. Savings from other health insurance items, and from reductions in the non-contributory retirement obligations as more retiring employees fall into the contributory category, have been directed to this fund. It is presently funded at \$1.27 million.

3. Debt and Debt Service

The Financial Trend Monitoring Report shows the Town's debt, and consequently debt service, continuing to rise as we continue to undertake the backlog of large capital projects. While each of these projects has been carefully scrutinized by the Advisory Committee and then voted by Town Meeting in the CIP (Capital Improvement Program), the total debt in the coming years is sobering. In FY1992 total outstanding debt was \$18 million; by FY2003 this is expected to rise to \$128 million, including the High School renovation project. In the proposed FY2002 budget, \$13,465,406 is devoted to debt service. Annual debt service rises in longterm projections to \$15,783,602 by FY2006. The Advisory Committee commends the Selectmen's policy to fund

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more small projects from Free Cash when available to keep debt service for CIP projects below 5% of net operating revenues.

4. State Aid

As mentioned above, we anticipate that State Aid will drop next year and will continue to drop for several years as the Income Tax reduction is phased in. Conversations with our state legislators suggest that it is too early to tell how much State Aid will drop or where it will be cut. Brookline currently ranks 203 out of the 351 cites and towns in the Commonwealth in the per capita amount of aid it receives from the State. This is due in large part to the Town's relative affluence, but it must be weighed against the ever more expensive unfunded state mandates that the Town must meet, particularly in the area of education (Special Education, MCAS preparation, and Time and Learning requirements at the High School).

C. FY2002 Budget

1. Revenue

As stated above, total revenue for FY2002 is estimated to be \$159,307,709. The property tax levy, which comprises 66% of annual operating revenues, is anticipated at \$103,649,158. This estimate includes the FY2001 levy limit of \$98,352,750, plus 2 ½ %, bringing the levy to \$100,811,571, plus \$1,000,000 in new growth, plus debt exclusion costs for Lincoln School and the High School, which net at \$1,837,587 (\$4,668,390 in debt service for the two projects, minus \$2,830,803 in reimbursement money from the State's School Building Assistance funds). The property tax increase is 3.42%, the lowest percentage increase in the past decade. The Town's total anticipated revenue is as follows:

Property Taxes	\$103,649,158
Local Receipts	\$ 17,187,907
State Aid	\$ 19,919,390
Free Cash	\$ 11,536,850
Other Available Funds	<u>\$ 7,014,404</u>
Total Revenue	\$159,307,709

Free Cash was certified at \$12,157,308 by the State at the close of FY00, which was higher than expected. (The State appears to have changed the method of calculating this amount and may determine later that it erred in its calculations). This is an unusually large increase of \$6.374 million, or 110%. Free Cash is generated when the actual operation costs for the previous year are less than anticipated in the budget or when more revenue is collected than anticipated. Because this source of revenue varies widely (as recently as 1993 it was a negative number), it has been the Selectmen's policy to deduct funding for the Unappropriated Reserve, then apply the remainder to Capital Improvements and other Reserve Funds or special one-time appropriations, rather than adding it to the

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Operating Budget. For FY2002, \$620,458 will be placed in the Unappropriated Reserve Fund. The proposed budget distributes the remainder as follows:

Capital Improvements	\$ 9,791,621
Stabilization Fund	\$ 235,000
Housing Trust Fund	\$ 1,000,000
Retiree Group Health Trust Fund	\$ 200,000
Liability Reserve	<u>\$ 310,229</u>
Total	\$11,536,850

As discussed in the section above dealing with debt, this higher than usual amount of free cash has meant that some projects can be paid for without increasing the Town's debt burden.

2. Expenses

The amount available for appropriation is \$150,553,446. The FY2002 budget proposes that this amount shall be divided as follows:

Town Departments	\$ 49,580,779	+5.09%
School Departments	\$ 50,409,724	+6.14%
Non-Departmental	\$ 32,174,361	+5.21%
Water and Sewer Enterprise		
Fund Overhead	\$ 4,789,762	+2.62%
Golf Enterprise Fund		
Overhead	<u>\$ 384,800</u>	<u>-9.94%</u>
Budget Subtotal	\$137,339,426	+5.36%
Capital and Special		
Appropriations	<u>\$ 13,214,021</u>	<u>+11%</u>
Total Appropriations	\$150,553,446	+5.84%

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

3. Items of Note

Police Department Budget-The most significant change in this budget from recent years' budgets is the increase of six positions in the Police Department. The opening of the Combined Police and Fire Headquarters is anticipated for later this year. The dispatch operation, which will now be a combined 911 police/fire operation, will be housed in a more isolated area, away from the distractions of the front desk. In the last round of collective bargaining between the Town and Police union, it was agreed that this function could be staffed by civilians. The Fire Department's dispatch was already staffed by civilians. Police Chief O'Leary then followed up on a long-

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standing request for more officers and asked that the officers freed up from the dispatch operation be reassigned to street patrol. The Town Administrator and Selectmen agreed since they frequently receive complaints about traffic regulation enforcement. Although the actual number of police officers will not change, this will result in the equivalent of 6 additional police officers on the streets, since the new civilian employees will be handling the dispatch previously done by the police officers. This is a significant change from the Town's policy of not allowing the number of full-time Town employees to increase. The Advisory Committee did have serious discussion about whether this number should be reduced as attrition occurs, but concluded that since the money was available, the additional police presence available for traffic enforcement and overnight parking violations would be welcome. The average cost of a police officer to the Town including benefits, retirement, and Quinn bill bonus pay is \$66,870 annually. Therefore, six officers costs the Town approximately \$401,222 annually. The Advisory Committee hopes that the additional officers will help to bring down the persistently high expenditures on overtime in the Department.

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

Group Health-The financial turmoil among the HMO's had led the Town to expect large increases in costs as it experienced last year. Instead, the increases of 1% from Harvard Pilgrim Health Care (HPHC) and 5% from Blue Cross/Blue Shield were a pleasant surprise. The numbers of Town employees continues to grow, however, particularly in the School Department. As teachers are now able to retire early, they remain on the Town's health insurance until they are old enough to qualify for Medicare, at which point the cost of those enrollees decreases for the Town. We may again see large growth in the cost of providing quality health insurance as that industry continues to struggle to contain costs.

Collective Bargaining-There were no Collective Bargaining agreements needed for this year because they were all settled for a two-year period beginning in July 1, 2000.

Street Lights-Later this year, the Town is expecting to buy all of its street lights from Boston

Edison (N Star). The Town believes it can save significant amounts of money on the maintenance and do a better job than Edison. A portion of the savings will be directed to several public works budget items and the remaining savings will be used in future years for the looming increase in energy costs.

Other-The Town sponsored several forums on Affordable Housing which were well attended. The addition of \$1 million to the Affordable Housing Trust Fund is an important step in more concretely addressing this need, which continues to grow as housing and rental prices rise. This budget, along with some state money, also begins to address some Traffic Calming items.

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D. Conclusion

The budget for FY2002 is a good one for the Town. Free cash was high enough to address a number of important issues. We may face uncertainty in the next few years, but we have made substantial progress on our effort to address our long-standing capital needs. The Senior Center and Baker School are finished and have opened their doors. The complete rehabilitation of the Police/Fire Headquarters is well underway, as is the renovation of the Library, a project that could not be possible without the major private fundraising campaign undertaken by the Library Trustees and a large State grant. Plans for the Lawrence School are proceeding with neighborhood input. The fiscal management policies that the Town adopted several years ago have resulted in more budgeting certainty, a healthier infrastructure, and better long-range planning.

II. SCHOOL BUDGET

Reminder

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

Budget

This year's budget (General Fund) of \$50,712,574 is made up of the Town's appropriation of \$49,309,724, general override funds of \$1,100,000, and the Tuition/Building revolving funds of \$302,850.

This reflects an increase of \$2,915,844 (6.1%) to the General Fund budget. When combined with \$8,598,524 from grants and revolving funds, the total budget for FY '02 is \$59,311,098.

Allocation of "increase"

The allocation of the increase (\$2,915,844) is as follows:

?? Mandated and/or contractual	
?? Collective bargaining (3%)	1,215,000

?? Technology	150,000
?? SPED	844,924
?? Steps/lanes	<u>200,000</u>
	2,409,924
?? Remaining allocations	
?? Administrative system-wide requests	175,920
?? Elementary requests	230,000
?? High School requests	<u>180,000</u>

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?? Budget Reduction (80,000)	
	<u>505,920</u>
	<u>2,915,844</u>

While this year's budget enjoys a substantial increase, the leverage of that increase is quickly lessened when mandates and contractual costs are subtracted. Those issues that weigh most heavily are associated with personnel and SPED costs.

Personnel

Personnel costs are by far the largest component of the budget (approximately 85%). Total General Fund staff in FY'02 is 851.77 FTE's; a total all funds FET's are 999.8, an increase of 21.63 in the General Fund and 5.0 under the external funds budget.

Of note is the mix of staff. The cost per FTE is held down because of the greater use of aides and technicians. For FY'02 this represents 17% of staffing (General Fund). The Schools have found great benefits in this approach, both financially and academically. However, it should be noted that as with any position, there are considerable associated benefit costs.

Also of note is an increase in FTE's for Vice Principals. With Education Reform came greater responsibilities for Principals. The change in VP FTE's reflects a greater need for administrative support in response to these increased demands. Ideally, the Schools would like to move towards full time Vice Principals, however, the budget simply will not accommodate this.

A Teacher Early Retirement Program and collective bargaining increases will also have a pronounced effect on the School's budget.

Early Retirement

The Massachusetts Teachers' Retirement System, Chapter 114, takes effect 7/01. It is expected that at least 20 teachers will take advantage of this in the next two years. Because of this early retirement option, certain personnel costs will shift.

New teachers are less expensive (approximately \$22K less in salary than a teacher at maximum levels) than those long in the system. Initial savings are expected, not only in salary,

but health insurance. Younger teachers also tend to need less health coverage. However, there is another side to the equation.

The Town must pick up healthcare costs for early retirees. The estimates of these costs are approximately \$7 million over the next 5-6 years. Additionally, inexperienced teachers will require more mentoring. (\$40,000 has been added in the budget for Mentoring & Induction related activities in addition to the base of \$13,600 in FY '01). What the associated costs may be in the future is unclear.

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The savings/cost balance is at best a "wash", and may very well mean an increase going forward.

Collective bargaining

As mentioned above, this budget allocates a 3% increase for collective bargaining increases in FY '02. An increase of 4% the following year is also being partially planned for in this budget. The Schools expect to carry over FY '01 surplus of approximately \$200,000 and have structured another \$200,000 in the budget. This is in anticipation of having to meet collective bargaining obligations.

Special Education

SPED costs continue to have a great impact on the School budget. SPED costs increase \$1,109,500 this year. This increase is offset by a saving of \$107,288 in staff adjustments and \$50,000 in increased grant funds for a net increase of \$844,924. This brings total SPED spending up to \$12,000,000 or just under 24% of the budget. In 1990, just under 15% of the budget was allocated to SPED. SPED spending (inclusive of medical and transportation) has grown by about 40% over the last 4 years, far outpacing the growth of the budget overall.

There are a number of components that contribute to the overall costs. Transportation costs are \$839,000 (\$50,000 increase over last year). 75% of elementary guidance and 70% of the psychology budget is for SPED. 79 students are expected to be out-of-district placements in FY'02 at a cost of \$3,305,861.

1,116 students (18.4%) are served by SPED programs at least part time. The School Department endeavors to mainstream students in the least restrictive environment. It is often, though not always, less expensive to keep students in-house rather than enroll them out of district. A task force is currently looking at SPED related issues and we hope to receive a report with their insights and recommendations

For FY'02, a new SPED administrator has been allocated to the High School. The High School program has sorely needed staffing and coordination. Currently there are two

administrators system-wide. The new structure will allow for the assignment of a K-4, 5-8 and 9-12 administrator.

SPED landscape

From '89 to '00, total student enrollment in Massachusetts increased 17.8%. During that same period, preschool SPED enrollment increased 83.8% while all other SPED enrollment increased 13.1%. Additionally, per pupil spending for SPED (inflation adjusted) grew nearly four times faster than regular education costs per pupil between '90 and '99. An increase in severity of needs contributes to this and many feel this is a trend that will continue. Indeed, there are those

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on the School Committee who believe Brookline should not be surprised by annual increases of nearly \$1,000,000.

While education reform increased aid to Brookline \$2,198,210 between 1993 and 1999, SPED costs were greater than that. Money intended for Education Reform efforts instead merely offset a portion of our increased SPED costs.

While all of this is rather sobering, it is more sobering to realize most of this is beyond our control. This is true not only in Brookline, but also across the nation.

A Massachusetts Association of School Superintendents' Task Force report concluded that school district policy and practice had not driven the dramatic increase in special education. Rather, the escalation was fueled by an increase in children with more severe special needs. Advances in medicine have (and will continue to) contributed to this trend.

More children with epilepsy and autism are now able to attend school. With this comes a greater need for medical management at the school level. Twenty years ago, only about half of low birth weight babies (< 3.33 lbs.) survived. Today the survival rate is topping 90%. Of those children, about 60% will have, at minimum, significant cognitive difficulties.

These factors drive costs for which in part we are liable. In the U.S. Supreme Court's ruling in Cedar Rapids Community School District vs. Garret, it established the requirement of schools to provide any and all necessary health services to its students with disabilities. The exception to this is services that can only be provided by a licensed physician. The court was not blind to the implication of its ruling, but stated "the district may have legitimate financial concerns, but our role in this dispute is to interpret law, (our) concern was whether meaningful access to public schools will be assured." What this decision set in motion was a system by which educational dollars are converted, in essence, to medical dollars. This, along with de-institutionalization and privatization creates enormous pressure. Massachusetts, unfortunately, ranks among the lowest in the nation in terms of state reimbursements for SPED costs.

Realistically, our only hope is that legislators realize and remedy the allocation of medical costs to educational budgets. This may simply be a matter to semantics since it is incumbent upon

us as a society to provide for these needs. However, the real effect of this shell game is that these costs eat up a disproportional part of any increased “educational” aid, hindering intended programs in general education. SPED costs, rather than being viewed as a result of school policy or demanding parents (neither is the case), should be recognized as a social/medical issue and funded accordingly.

For its part, the Brookline School Department continues to pursue cost savings through collaborations, remedial and in-house programming, consulting services and staff training. The challenge, however, is great.

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Full Day Kindergarten

Last year Brookline made the decision to go to full day Kindergarten (2:00 pm). This year (FY ‘01) was the first year of an expected 3-year award cycle (subject to State appropriation).

Level funding of \$396,000 is expected for FY ‘02, though FY ‘03 figures are unknown. All the costs of extending the day were covered by the grant funds, and that is expected to be the case for FY ‘02 as well.

For FY ‘03 and beyond, collective bargaining increases (4% in FY ‘03) will need to be covered by the General Fund at a cost of approximately \$14,000.

Whether the award cycle is extended in the future, or whether the program becomes an entitlement funded by the State is yet unknown.

Gifted & Talented

There are only 3 FTE’s for G&T: 2.2 teachers (\$129, 413), .6 coordinator (\$40,231) and .2 secretary (\$5,066).

Gifted & Talented teachers divide their time between our eight K-8 schools. They work with groups of children in a variety of ways; smaller groups, whole classes, specialized materials. Generally speaking, no student receives G&T services for an entire year.

This year’s budget reflects an increase of .2 FTE’s for additional teacher time at Baker School. There is a \$7,500 grant that expires at the end of this year, and does not appear in the FY ‘02 budget.

Technology

Technology has become a larger part of academics, and life in general. This year’s budget increases \$150,000 toward instructional technology. \$400,000 from the 1994 override continues to be applied to technology, but a greater portion of this goes toward maintenance and repairs each year.

Brookline was one of a dozen districts in the State to be designated as a Lighthouse District for technology. The Lawrence School is one of the State's pilot schools for Project MEET (Massachusetts Educators Empowered with Technology). In addition, Technology in Education (TIE) is a community effort at placing emphasis on proper instructional technology, and a task force on technology has been formed with the Brookline Foundation.

There is debate as to what is appropriate use of technology in learning. Issues of how much, in what setting, and how early in the learning process to introduce technology effectively are viewed from many positions. The Schools are mindful that technology is not a substitute for creative thought or reason, and that proper integration of technology into subject matter is the key.
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Toward these ends, the Schools brought in educational technology specialist Alan November this past year. This, to train and educate staff in thoughtful and appropriate approaches to productively integrating technology into the curriculum.

This coming year the Town and Schools will begin a technology audit. This should provide an opportunity to systematically assess needs and distribution of technology, as well as focus on strategies and evaluate possible synergies between the Schools and Town.

Chapter 70 Aid

Chapter 70 State Aid is a major contributor to school budgets across the State. The current House budget proposes fundamental changes to the formulation. The new formulation seeks to simplify the process and target aid based on growth and local ability to pay. Each district is "held harmless". That is, each will receive at least as much as in FY '01.

For Brookline, the proposal would increase our allocation by about \$603,000 (10.9%) bringing our total aid to \$6,152,467. This figure is predicated on an assumed enrollment increase of 4.4%. This is actually an aberration reflecting the fact that last year METCO students began to be carried in our enrollment totals. In future years, there may be increases for SPED enrollment (though enrollment assumptions are below State average) and a \$30 per pupil technology allotment. What finally emerges has yet to be seen.

Goals/Trends/Initiatives

A primary goal of the Superintendent's budget continues to be the equitable distribution of resources to all schools system-wide. Part of this is the goal of keeping all classes at or below 25 students. The FY'02 budget contains \$160,000 to comply with this goal at the High School where enrollment increases. System-wide, the average class size is 19.75 (K-8). However, certain schools are feeling enrollment pressures. Overall student enrollment growth has leveled off.

Another primary goal is to provide for adequate contingencies. In this budget is \$200,000 for steps/lanes, \$100,000 in general contingency, \$120,000 for SPED, and \$12,000 for bilingual funds.

The Schools' Literacy Initiative continues to be strong and is reaping the benefits of seeds sown earlier. Substantial improvements in reading scores of students in grades 3, 5, and 7 have been seen, while the rate of students reading below grade level has dropped from 34% to 13%.

Unfortunately, there has not been as strong an initiative in math literacy. As computers and technology incorporate ever-more sophisticated mathematical modeling into our daily lives, it is important to strengthen our understanding of the underlying fundamental precepts that have become automated. The Schools recognize this needs the same attention as reading and writing. A team of math coordinators has begun an effort to address this issue.

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Foreign language instruction at an earlier age has long been a goal. The benefits are many-fold. This year's budget provides \$35,000 to begin a pilot study of implementing a World Language program at each of the elementary schools.

Not everything can be done in this budget. It is unable to fund full time Vice Principals or school-based mentoring and math support. There is not enough to fully implement a World Language program at the elementary levels, or provide significant increases to the Gifted & Talented programming. There are many other valuable initiatives that we must forgo.

In the final analysis though, the Superintendent's budget must be a thoughtful balance between enrollment pressures (BHS and Baker), SPED costs, collective bargaining, responsible contingencies, and some support for new initiatives.

We have enjoyed a period of economic prosperity. Both the Town and the Schools have felt this. The pressures of mandated spending, however, have moderated the positive effects felt by the Schools.

While this year's ample budget increase works toward strengthening and furthering the progress of the past years, we must be mindful that the future may not be as kind as the recent past. This year's budget and the priorities set take a responsible view of that future.

ADVISORY COMMITTEE'S
SUMMARY OF CAPITAL IMPROVEMENTS PROJECTS

43. TOWN HALL - FEASIBILITY AND NEEDS ASSESSMENT \$ 50,000. (T)

In FY-2002 funds are being requested for a feasibility study and needs assessment of the Town Hall Building to determine the needs of the various departments and agencies occupying this building, which is 40 years old. Future renovations will include the replacement of the HVAC

system, lighting and re-deployment of space throughout the building, as developed from the needs study.

44. COMFORT STATIONS \$ 25,000. (T)

This request is the first year of a three-year program to renovate and upgrade comfort stations in our parks.

45. PUBLIC BUILDINGS FURNISHINGS & EQUIPMENT \$ 125,000. (T)

These funds are to be used to upgrade the existing 40-year-old furniture to accommodate the deployment of computer workstations.

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46. ASBESTOS REMOVAL \$ 100,000. (T)

This appropriation, which will be requested every year through FY 2006, will allow for the removal of asbestos whenever it is discovered in a Town/school facility. Many times when mechanical system repairs are in progress, expensive asbestos abatement has been required. These funds will allow for the proper abatement of asbestos.

ADA RENOVATIONS-TOWN/SCHOOL \$ 150,000. (CDBG) *

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

*CDBG project items do not require Town Meeting action.

47. PUBLIC EVENT KIOSK \$ 35,000. (T)

This item will allow us to begin a pilot project in FY 2002 by engaging in a public process to design, and later in the year build, a prototype structure in one commercial area. Kiosks can anchor a commercial area by providing a map of the district and some pertinent information to orient visitors. In addition, a very important function will be to display public notices about meetings, programs, and civic events. These street-level displays are pedestrian-friendly and welcome public transit riders as well. They will be much more attractive than the plethora of sandwich boards that dot our commercial areas landscape now, and may ultimately partially or substantially replace these boards. By taking a year to design and implement a pilot, with the benefit of extensive citizen input, we make sure to approach this carefully and learn about how to be maximally effective in producing the result we want.

48. FACADE IMPROVEMENT PROGRAM \$ 20,000. (T)

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

round of improvements in local business districts. It is an important way we can leverage private dollars from limited public investments.

49. STREET SCAPE/CIVIC SPACE \$ 50,000. (T)

This project will allow us to think about the strategic investment of public dollars to increase greatly the attractiveness of our commercial areas. In the first year, we will conduct a public process to identify the most useful places for streetscape improvements to make our commercial areas more pedestrian-friendly and generally welcoming places. As part of this effort, we will explore possible locations for a pocket park or plaza, and engage the public in thinking through the creation of useful civic spaces such as the small one created next to the small Center Street lot and

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built as part of the redesign for the relocation of the Farmer's Market. These funds will allow us to follow through with design and construction as well. Additional public/civic spaces could make a big difference in the overall feel of our commercial areas and represents a very exciting opportunity to emphasize our strength—namely, the pedestrian-friendly nature of a transit-oriented, neighborhood-centered shopping area

50. PUBLIC SAFETY HEADQUARTERS RENOVATION \$3,727,500. (T)

This funds will be used for the renovation and modernization the existing Police and Fire Buildings which are located at 338-350 Washington Street. Both buildings are no longer suited for the needs of today. Both buildings were built many years ago and do not meet today's standards. There is also a need to update and consolidate the communications of both departments in order to increase efficiency and public safety. Money was appropriated for plans and specifications for this project in FY 1999, and funds for construction were approved for bonding in FY-2001. This appropriation will be replace half of the funds that were bonded in FY-2001 with direct tax appropriation in concert with the rescission of half of the bond authorization under Article 3 of this Town Meeting.

51. REPLACE FIRE ENGINE #1 \$ 300,000. (T)

This 1980 Pirsch 1250 GPM Pumper will be 24 years old when replaced. This is part of a planned replacement program for the departments fire apparatus. The manufacturer of the present engine is no longer in business, making parts difficult to find and repairs costly.

52. FIRE RESCUE TRUCK \$ 60,000. (T)

The Fire Department has a need for a vehicle to carry specialized equipment for a number of purposes including carrying hazardous material equipment which has never been carried before.

53. FIRE UTILITY TRUCK \$ 28,000. (T)

This proposal is to acquire a vehicle to carry the ice boat, ropes, emersion suits, life rings etc. It would be small enough to get to the pathways around the Reservoir, Muddy River, and the various ponds in town.

54. FIRE DEPARTMENT MAINTENANCE FACILITY \$ 100,000. (T)

The maintenance shop will be relocated from Station #1 to Station #4.

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MAIN LIBRARY \$789,000. (CDBG) *

The Main Library is being totally renovated to create an additional 18,000-sq. ft. of public space and double the size of the Children's Room. The renovation will include the replacement of all HVAC systems and upgrade electrical systems for new information technologies.

55. WASHINGTON /THAYER SIGNAL MODERNIZATION \$ 20,000. (T)

This appropriation is to construct new fully actuated traffic signals at this intersection. The current equipment was installed in 1949 and is Fire Station controlled only. There is a need for pedestrian control and side street control. This work will be coordinated with the new Police/Fire Station project.

56. 61 PARK STREET NEW TRAFFIC SIGNAL \$ 15,000. (T)

These funds will be for plans and specs for the future construction of new traffic signals at Park Street Elderly Housing, providing pedestrian - actuated crossing.

57. HAMMOND/HEATH SIGNAL \$ 208,000. (T)

It has been apparent for some time that there is a need for traffic control signals at the intersection of Hammond and Heath Streets. This intersection is currently controlled by a stop sign on Heath Street, and a police officer is needed for the evening peak hours to assist motorists exiting Heath Street onto Hammond because the intersection is often blocked by cars backed up from the light at Route 9. In addition to the long delays, this intersection has a high rate of accidents. In FY 1997, \$30,000 was appropriated for the design of a traffic signal at Hammond/Heath Streets. Since then, the developer of the Life Care Facility on Tully Street was obligated, as part of a Board of Appeals decision, to engage the services of a consultant to design the signal for the Town. The money requested is for the construction of the signal.

58. LONGWOOD/KENT SIGNAL MODERNIZATION \$ 75,000. (T)

This 20-year-old signal needs to be rebuilt and coordinated with the traffic signals at Chapel Street and the Riverway to provide efficient movement of traffic.

59. WASHINGTON STREET AT PARK STREET - NEW SIGNAL \$ 90,000. (T)

For construction of new traffic signals to provide pedestrian control and side-street activation. This location has a high pedestrian use (high school) and heavily used collector intersections.

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AUDIBLE SIGNALS (ADA) \$ 10,000. (CDBG) *

Install audible pedestrian signals at key locations throughout the Town for compliance with ADA requirements.

60. STREET REHABILITATION - TOWN \$1,000,200. (T)

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

61. STREET REHABILITATION - STATE \$ 508,591. (G)

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

STREET REHABILITATION - CD \$ 50,000. (CDBG) *

Certain streets are eligible for CDBG funds. The Pavement Management Program identifies those streets in need. In 2002, Winchester Street will be done.

62. TRAFFIC CALMING STUDIES \$ 205,000. (T)

Traffic calming studies have become a major request for the Transportation Department. To date, Walnut Street, Winchester Street, and Reservoir Road have been identified. The demand for studies has exceeded the funding. This appropriation will fund more studies and some implementation.

63.&64. SIDEWALK REPAIR

\$ 300,000. (T)

The DPW receives many complaints about the condition of the sidewalks. During street rehabilitation the adjoining sidewalks are reconstructed at the same time. This proposal is for producing and deploying a program of scheduled replacement of remaining sidewalks throughout the town. This year a consultant is being hired to inventory and prioritize a sidewalk replacement program. \$75,000 of the appropriation will be used as seed money to establish a fund to implement home owner requests for the upgrading of their sidewalks; the fund will be replenished by the homeowner when their request is approved and implemented.

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65. PATH RECONSTRUCTION

\$ 100,000. (T)

The Town maintains 11 public paths. The paths receive a heavy and concentrated use which, during the winter months, requires that the Town apply de-icing materials. These de-icing materials result in deterioration of the concrete stairs and metal handrails. Recently, some paths in the CDBG eligible area have been reconstructed.

66. CHESTNUT STREET DRAIN/WILLOW POND ENVIRONMENTAL

\$ 35,000. (T)

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

67. BAKER SCHOOL SIDEWALKS

\$ 30,000. (T)

The sidewalks at the Baker School are in poor condition. The sidewalks were not being done as part of the school rehabilitation project. In order to have a complete and presentable project the sidewalks should be replaced.

68. LARZ ANDERSON PARK

\$ 300,000. (T)

\$ 100,000. (G)

A master plan for the long-term rehabilitation of Larz Anderson Park was approved by the Town in 1988 and defined the work for three phases. The first phase was completed in 1990. Since that time, other improvements have been made, including a new entrance to the pavilion. This proposal

is to begin work on the next phase of rehabilitation, a multi-year project to rebuild and repair the perimeter wall beginning at the corner of Goddard Avenue and Newton Street. The historic garden wall is an important landscape element, which also serves as an important sound barrier between the busy street and the park. The reconstructed wall will serve as a prototype for the rebuilding of the many other walls inside the park. Matching state funds are also available.

69. PARKS, PLAYGROUNDS REHABILITATION & UPGRADE \$ 268,500 (T)

This amount allows for removal and replacement of older unsafe play equipment and spot repairs at various locations in an ongoing program. This is a town-wide program for the repair and

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replacement of fencing, benches, and minor field improvements. This program will prevent more expensive rehabilitation, which will be necessary if these items are continuously ignored.

ROBINSON PLAYGROUND \$ 30,000. (CDBG) *

The field surfaces will be rehabilitated, an irrigation system installed, fencing replaced, and landscaping will be accomplished in this project. This work was not included in the 1992 reconstruction project for the playground.

COOLIDGE PARK - Plans \$ 20,000. (CDBG) *

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

70. TREE/SHRUB MANAGEMENT \$ 25,000. (T)

The trees and shrubs within the Parks and Playgrounds are in need of attention. The appropriation under the "Tree Removal and Replacement" (see below) is for trees within the Roadways. This funding will be used to manage the trees within the Parks and Playgrounds similar to the program in place for street trees including pruning or removal. This work will compliment the turf maintenance work the Park Department is undertaking in these areas.

71. PARKLAND OPEN SPACE MASTER PLAN \$ 100,000. (T)

Parks and recreation facilities are critical elements in Brookline's infrastructure. Open space shapes a community's quality of life as much as the roads, sewers, water supply and energy supplies. A Park and Open Space Master Plan is necessary that surveys the condition of the open spaces and sets a schedule for reconstruction that includes cost estimates. The plan will also delineate on-going site-specific maintenance requirements based upon a standardized needs-based assessment of public open spaces. In addition, to a town-wide restoration schedule, the plan will include a full description of the property, the goals for management including monitoring and record-keeping, the level of maintenance desired, the annual operating costs expected over the next five years, the capital costs expected in the next 10-20 years, and regulations for use and enforcement. The plan would also evaluate re-design options and maximizing efficiency/capacity of Parks and Open Spaces.

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72. TREE REMOVAL AND REPLACEMENT \$ 100,000. (T)

The tree removal and replacement project represents the Tree Planting Committee's effort to balance the Town's street tree planting with removals along roadways. As other funding diminishes, it is crucial to expand the Town's commitment to plant the much-needed trees.

73. FORESTRY RESTORATION \$ 75,000. (T)

Over the years, little attention has been given to the trees in the Town's four (4) conservation properties. Storm damage, disease, and old age continue to reduce tree canopies. The funds would be utilized to perform forestry restoration work to prolong the life and restore the vitality of the trees. Where required, new trees need to be planted in anticipation of the ultimate loss of existing mature trees.

74. TOWN/SCHOOL GROUNDS REHABILITATION \$ 120,000. (T)

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

75. HEMLOCK TREE ASSESSMENT AND REMOVAL \$ 40,000. (T)

The funds requested are for the assessment, monitoring, and management of the Hemlock trees in Brookline including hazard tree removal. In Brookline, natural stands of hemlock occur on public open spaces at Baker School, Dane Park, D. Blakely Hoar Sanctuary, Larz Anderson Park, Public Works Municipal Center, Putterham Woods/Golf Course, the Soule Recreation Center, and the Walnut Hills Cemetery. Approximately 3,380 Eastern Hemlock trees are located on Town properties. The majority of Hemlock trees in Brookline are at the D. Blakely Soar Sanctuary (1,220) and Putterham Woods (1,286). The tree is also found on many private properties throughout Brookline. The Woolly Adelgid is a parasitic insect that threatens to extinguish the Eastern Hemlock tree in the Eastern United States. To date, there are limited solutions to save the

Hemlock species. Many of the Eastern Hemlocks have been infested with the Woolly Adelgid and, without treatment, may die. A large number have already died and pose a safety hazard.

76. LARZ ANDERSON SKATING RINK \$ 150,000 (T)

The outdoor rink atop Larz Anderson Park was reconstructed in 1975. The iron piping carrying the brine refrigeration solution is in need of replacement. This work involves removal of the concrete ice rink floor and replacement of circulation piping and concrete. The new rink floor will be designed to be used also for in-line skating. Multiple valves to allow sectional repairs will separate all piping. The "open air" brine system will be converted to a "closed" system and the dasher boards will be repaired and replaced as needed. An extension of the skating season will be possible due to the improved refrigeration capacity.

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77. SWIMMING POOL - Shower Renovations \$ 250,000. (T)

Complete renovation of both shower rooms at the Swimming Pool is needed to repair and improve both areas. The work will include installing new plumbing fixtures as well as replacing all water pipes and drains. Also, the shower stalls are in need of replacement and the shower areas for the handicapped need to be updated. Energy savings and water conservation will result with the installation of automatic shut off valves at all hot and cold water fixtures.

78. SOULE RECREATION CENTER - Renovation \$800,000. (T)

The Soule Recreation Center, a facility that was leased for private day care from 1989 to 1994, has been re-established as a recreation center. The Town purchased this building for recreational use in 1961 (it was constructed in 1897). Presently, some of the programs being conducted at the Soule Recreation Center include: the R.A.F.T. Clubhouse and computer center, tap and ballet classes, "easyrobic" classes for adults, kids crafts, an after-school program, a morning play program, neighborhood meetings, and an additional day camp for children ages 4, 5, and 6. The roof at the Soule Center was replaced in FY 1995 and the Gymnasium was renovated in FY 1996. Items which will be included in this renovation include: installation of an elevator for ADA compliance, the installation of a new heating system with multiple zone control, the installation of new energy efficient doors and windows, an electrical upgrade, new insulation, the replacement of floor surfaces and an upgrade of plumbing items.

79. FURNITURE UPGRADES \$ 25,000. (T)

Upgrade furniture in all schools. Much of the furniture in the schools is very old and worn. This replacement program will replace the most dated and worn items.

80. NETWORK WIRING OF SCHOOLS \$ 200,000. (T)

This appropriation is requested in order to install fiber optic wiring throughout the Brookline Schools to link them to the computer network system.

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| 81. | HIGH SCHOOL (GYM) | Gym | \$ 150,000. (CDBG) * |
| | | General Repairs | \$ 130,000. (T) |

These funds are requested in order to replace a ramp to the gymnasium to comply with the Americans with Disabilities Act (ADA), to replace the roof, pointing of brick exterior, and other miscellaneous repairs.

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| 82. | PIERCE SCHOOL | \$ 1,353,000 (T) |
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This project includes the repair of ventilators, replacement of some windows so that they can be opened and some carpeting and painting. It will replace HVAC equipment (\$800,000) to provide for more fresh air, better climate control, and zoning. This building was originally designed to be used with an air conditioning system and not to have operable windows. The air conditioners are not used thus we need to be able to open the windows to allow fresh air into the building. This would allow the forced air handlers to be shut down during certain weather conditions. Carpet replacement (\$403,000) which is 30 years old. Scheduled painting (\$150,000) of entire school.

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| 83. | HEATH SCHOOL | \$ 100,000. (T) |
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These funds will be used to make necessary improvements to the faculty area and to install two new oil burners.
In FY-2001 funds were approved for plans for the improvements.

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| 84. | LYNCH RECREATION CENTER | \$ 225,000. (T) |
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This building was completely renovated in 1975. The windows, although double layer glass, are in need of replacement. These windows are spring loaded for opening and closing, and many springs have broken, making it impossible to open the windows. This project will also include replacement of all gutters and downspouts

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| 85. | SINGLETREE TANK REHABILITATION | \$ 140,000. (TE) |
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The water distribution system provides storage and operating reserves through the Singletree Hill water storage tank. Scheduled maintenance requires that the interior of the steel tank be painted every 10 years and the exterior be painted every 8 years. The interior was last completed in 1990 and the exterior in 1993. In order to continue the required maintenance on this 60-year-old structure, this two-year project includes painting both the interior and exterior surfaces of the tank in successive years.

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| 86. | WASTEWATER SYSTEM IMPROVEMENTS | \$6,000,000.(EB) |
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This is for the rehabilitation of the wastewater collection system (sanitary sewer) based on the recommendations of the Wastewater System Master Plan. The sequence of construction projects will be grouped based on priorities established by the master plan and awarded over two year periods.

87&88. GOLF COURSE PHASE III AND CLUBHOUSE **\$ 2,840,000. (BE)**

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

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89. LAWRENCE SCHOOL **\$15,685,000. (B)**
LONGWOOD PARK (Lawrence) **\$455,000. (B)**

In FY 1996, a Phase I space utilization study was undertaken to address the needs of the expanding student body at Lawrence School. The study documented a number of facility issues, including the need to upgrade mechanical systems, improve accessibility, and provide better instructional space. Phase II involves the development of a master plan for building renovations, alternative design layouts, evaluation of feasibility and costs, and development of an implementation strategy. FY 2001 funding is being spent for the architectural and engineering plans and specifications for the renovation of the school. Construction funds are included for FY 2002.

For the Park, proposed improvements include rebuilding the playfield, rehabilitating the older children's playground, rehabilitating center playground area, and grading and landscaping the Longwood entrance area. This will be done in concert with the Lawrence School renovation project.

The Advisory Committee unanimously recommends the following appropriations vote for FY2002:

VOTED: To approve the budget for fiscal year 2002 set forth in the attached Tables I and II; to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

1.) TRANSFERS AMONG APPROPRIATIONS: Transfers between the total departmental appropriations separately set forth in Tables I and II shall be permitted only by vote of Town Meeting. Within each separate departmental appropriation, expenditures shall be restricted to the expenditure object classifications set forth in the recommendation of the Advisory Committee, and voted by the Town Meeting, for each department, subject to the following exceptions:

- A) Expenditures within the appropriation for the School Department shall not be restricted.
- B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Board of Selectmen and Advisory Committee:
 - i) Transfers from the appropriation for the capital outlay object classification to any other object classification.
 - ii) Transfers to the appropriation for the personal services object classification from any other object classification.
 - iii) Any transfer which has the effect of increasing the number of positions or the Compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.
 - iv) Transfers of more than \$5,000 to or from the appropriation for any item within the capital outlay object classification or repairs to public building appropriations within the Building Department appropriation.
 - v) Transfers within the Department of Public Works from the Parks Division to any other purpose.
- C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.
- D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Board of Selectmen, and written notice of each such approval shall be submitted promptly to the Advisory Committee.

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2.) PROCUREMENT CONTRACTS AND LEASES: The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2002 budget, and to solicit and award contracts for terms of more than three years, provided that in each instance the longer term is determined to be in the best interest of the town by a vote of the Board of Selectmen.

3.) ALLOCATION OF SALARY ADJUSTMENTS: Appropriations for salary and wage adjustments (Item #42) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Board of Selectmen shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personal Services Reserve, which shall be used to fund costs incurred over the course of the fiscal year pursuant to employee contracts and/or established personnel policies. The Town Comptroller shall include an accounting of all transfers made from this reserve in the Annual Financial Report.

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4.) SALARIES OF ELECTED OFFICIALS: The salaries of members of the Board of Selectmen shall be at the rate of \$3,500 per year for the Chairman and at the rate of \$2,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of \$77,488 effective July 1, 2001, plus any adjustment approved by vote of the Board of Selectmen. The Town of Brookline shall pay all fees received by the Town Clerk by virtue of his office into the Town treasury for use.

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

6.) GOLF ENTERPRISE FUND: The following sums, totaling \$1,164,530 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

Salaries	\$215,074
Purchase of Services	\$475,650
Supplies	<u>\$ 69,006</u>
Total Appropriations	\$779,730
Indirect Costs	\$384,800
Total Costs	\$1,164,530

Total costs of \$1,164,530 to be funded from golf receipts with \$384,800 to be reimbursed to the general fund for indirect costs.

7.) WATER AND SEWER ENTERPRISE FUNDS: The following sums, totaling \$18,821,105 shall be appropriated into the Water and Sewer Enterprise Funds, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	<u>Water</u>	<u>Sewer</u>	<u>Total</u>
Salaries	1,572,683	214,370	1,787,053
Purchase of Services	50,752	95,000	145,752
Supplies	94,815	8,535	103,350
Other	3,100	0	3,100
Capital	82,889	86,200	169,089
Intergovernmental	<u>3,323,000</u>	<u>8,500,000</u>	<u>11,823,000</u>
Total Appropriations	5,127,238	8,904,105	14,031,343
Indirect Costs	<u>3,699,192</u>	<u>1,090,570</u>	<u>4,789,762</u>
Total Costs	8,826,430	9,994,675	18,821,105

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Total costs of \$18,821,105 to be funded from water and sewer receipts with \$4,789,762 to be reimbursed to the general fund for indirect costs.

8.) REVOLVING FUNDS:

- a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed \$600,000.
- b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2, a revolving fund for the repair and maintenance of the Town's rental properties. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed \$60,000.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of \$2,860,722, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the

work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

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

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Parking Meter Special Revenue Fund (to the Department of Public Works - \$600,000) (to the Police Department - \$600,000)	\$1,200,000
State Library Aid Special Revenue Fund (to the Library)	\$ 41,555
Cemetery Perpetual Care Expendable Trust Fund (to the Department of Public Works)	\$ 10,000
Cemetery Sales Special Revenue Fund (to the Department of Public Works)	\$ 40,000
Commonwealth Sewer Rate Relief Fund (to the Department of Public Works Sewer Division)	\$ 39,696
Group Health Insurance Unmatched Accrued Expense Account (to the Retiree Healthcare Liability Trust Fund)	\$348,771.11

11.) BUDGETARY REPORTING: The Town Comptroller shall provide the Advisory Committee with a report on the budgetary condition of the Town as of September 30, December 31, March 31, and June 30, within 45 days of said dates. This financial report shall include a summary of the status of all annual and special appropriations voted in this article; a report on the status of all special appropriations voted in prior years which remain open at the reporting date; and a summary of the status of all revenues and inter-fund transfers which have been estimated to finance the appropriations voted under this article.

12.) SPECIAL APPROPRIATIONS: The appropriations set forth in items 43 through 89 on Table 1 shall be specially appropriated for the following purposes:

43.) Raise and appropriate \$50,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for upgrading the Town Hall facility.

- 44.) Raise and appropriate \$25,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for the improvement of park comfort stations.
- 45.) Raise and appropriate \$125,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for furnishings and equipment for Town Buildings.

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- 46.) Raise and appropriate \$100,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removing asbestos from Town-owned buildings.
- 47.) Raise and appropriate \$35,000, to be expended under the direction of the Planning and Community Development Director, with the approval of the Board of Selectmen, for the planning and purchase of a Public Event Kiosk.
- 48.) Raise and appropriate \$20,000, to be expended under the direction of the Planning and Community Development Director, with the approval of the Board of Selectmen, for a Facade Improvement Program.
- 49.) Raise and appropriate \$50,000, to be expended under the direction of the Planning and Community Development Director, with the approval of the Board of Selectmen, for streetscape / Civic Space.
- 50.) Raise and appropriate \$3,727,500, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for improvements to the Public Safety Building.
- 51.) Raise and appropriate \$300,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a Fire Engine.
- 52.) Raise and appropriate \$60,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a rescue truck.
- 53.) Raise and appropriate \$28,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a pick-up truck.
- 54.) Raise and appropriate \$100,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for the purpose of moving the Fire department vehicle maintenance shop from Station #1 to Station #4.

- 55.) Raise and appropriate \$20,000, to be expended under the direction of the Commissioner of Public Works, with approval of the Board of Selectmen, for signal modifications at Thayer / Washington Street.
- 56.) Raise and appropriate \$15,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for a pedestrian signal at 61 Park Street.

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- 57.) Raise and appropriate \$208,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for plans, for specifications and for the construction of the Hammond / Heath Street signal.
- 58.) Raise and appropriate \$75,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for signal modifications at Longwood / Kent Streets.
- 59.) Raise and appropriate \$90,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the installation of new traffic signals at Washington / Park Streets.
- 60.) Raise and appropriate \$1,000,200, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.
- 61.) Raise and appropriate \$508,591, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for repair, reconstruction, and resurfacing of various streets, and to meet the appropriation, authorize the Public Works Commissioner, with the approval of the Board of Selectmen, to expend and otherwise utilize, state and federal grants, funding, and aid therefore, including funding under so-called Chapter 90 Aid.
- 62.) Raise and appropriate \$205,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for traffic calming studies and improvements.
- 63.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for sidewalk reconstruction.

- 64.) Raise and appropriate \$200,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for a Sidewalk Betterment Revolving Fund.
- 65.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Pathway Reconstruction.
- 66.) Raise and appropriate \$35,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the Chestnut Street Drain / Willow Pond Environmental controls.

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- 67.) Raise and appropriate \$30,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Baker School Pathway improvements.
- 68.) Raise and appropriate \$300,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Park and Recreation Commission and the Board of Selectmen, for improvements at Larz Anderson Park.
- 69.) Raise and appropriate \$268,500, to be expended under the direction of the Commissioner of Public Works, with the approval of the Park and Recreation Commission and the Board of Selectmen, for renovation of playground equipment, fields and fencing.
- 70.) Raise and appropriate \$25,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Park and Recreation Commission and the Board of Selectmen, for a Tree and Shrub Management program.
- 71.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Park and Recreation Commission and the Board of Selectmen, for the development of a Park Land / Open Space Master Plan.
- 72.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and Tree Planting Committee, for the removal and replacement of street trees.
- 73.) Raise and appropriate \$75,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for forestry restoration work.
- 74.) Raise and appropriate \$120,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for rehabilitation of Town / School grounds.

- 75.) Raise and appropriate \$40,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the removal and replacement of Hemlock trees.
- 76.) Raise and appropriate \$150,000, to be expended under the direction of the Building Commission, with the approval of the Park and Recreation Commission and the Board of Selectmen, for improvements to the Skating Rink.
- 77.) Raise and appropriate \$250,000, to be expended under the direction of the Building Commission, with the approval of the Park and Recreation Commission and the Board of Selectmen, for improvements to the Swimming Pool Showers.

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- 78.) Raise and appropriate \$800,000, to be expended under the direction of the Building Commission, with the approval of the Park and Recreation Commission and the Board of Selectmen, for improvements to the Soule Recreation Center.
- 79.) Raise and appropriate \$25,000, to be expended under the direction of the Building Commissioner, with the approval of the School Committee and the Board of Selectmen, for furniture upgrades.
- 80.) Raise and appropriate \$200,000, to be expended under the direction of the Building Commission, with the approval of the School Committee and the Board of Selectmen, for Network Wiring in school buildings.
- 81.) Raise and appropriate \$130,000, to be expended under the direction of the Building Commission, with the approval of the School Committee and the Board of Selectmen, for miscellaneous repairs to the High School.
- 82.) Raise and appropriate \$1,353,000, to be expended under the direction of the Building Commission, with the approval of the School Committee and the Board of Selectmen, for Pierce School improvements.
- 83.) Raise and appropriate \$100,000, to be expended under the direction of the Building Commission, with the approval of the School Committee and the Board of Selectmen, for the upgrade of the Faculty Area at the Heath School.
- 84.) Raise and appropriate \$225,000, to be expended under the direction of the Building Commission, with the approval of the Park and Recreation Commission and the Board of Selectmen, for improvements to the Lynch Recreation Center.
- 85.) Raise and appropriate \$140,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the Singletree Tank rehabilitation.

86.) Appropriate \$6,000,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the construction of sewers and sewerage systems and for the lining of sewers constructed for sanitary drainage purposes and for sewage disposal, and to meet the appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$6,000,000 under G.L.c.44, § 7 (1),(1A), as amended, and, G.L.c. 44, § 8, (15), as amended.

87. & 88.) To appropriate \$2,840,000 for the construction and reconstruction of the Putterham Meadows Golf Course and its facilities, including the construction and reconstruction and remodeling, reconstructing or making of extraordinary repairs to the associated buildings; to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen,

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to borrow \$2,840,000 under General Laws, Chapter 44, Section 7, Clauses (3), (3A) and (25), as amended, and Section 8, Clause (16), as amended; with the portion of the appropriation to be expended for the construction and reconstruction of the Golf Course to be under the direction of the Recreation Director, with the approval of the Board of Selectmen and the Park and Recreation Commission, and with the portion of the appropriation to be expended for the construction and reconstruction of and for the remodeling, reconstructing or making of extraordinary repairs to the associated buildings to be under the direction of the Building Commission, with the approval of the Board of Selectmen and Park and Recreation Commission; and authorize the Board of Selectmen or the Park and Recreation Commission to apply for, accept, receive and expend grants and aid and other forms of financial assistance from both federal and state sources and agencies for such purposes.

89.) Appropriate \$16,140,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and School Committee, for remodeling, reconstructing or making extraordinary repairs to and for additions, where such additions increase the floor space, to the Lawrence School, and for the construction and reconstruction of the adjacent Longwood Park, allocated as follows:

School Building - \$15,685,000

Longwood Park - \$ 455,000

and to meet the appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$16,140,000 under General Laws, Chapter 44, Section 7, Clauses (3), (3A), (21), (22) and (25), as amended, or under Chapter 645 of the Acts of 1948, as amended; and authorize and Board of Selectmen or the School Committee to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both federal and state sources and agencies for such purposes..

13.) **FREE CASH:** Appropriate and transfer \$11,536,850 from free cash for the following purposes:

- a.) Reduce the tax rate (Capital Improvements)- \$9,791,621;
 - b.) Housing Trust Fund - \$1,000,000;
 - c.) Liability/Catastrophe Fund - \$310,229;
 - d.) Stabilization Fund - \$235,000;
 - e.) Retiree Group Health Trust Fund - \$200,000.
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ARTICLE 8

EIGHTH ARTICLE

To see if the Town will accept the provisions of Chapter 411 of the Acts of 2000 that allows for an automatic “Pop-Up” for the eligible members of the Non-Contributory Retirement System on the same basis as the eligible members of the Contributory Retirement System, or act on anything relative thereto.

This article will grant a potential benefit to the nine (9) members of the Non-Contributory Retirement System who are still living and who selected Option C, the survivor option, at the time of their retirement. If accepted, these members will automatically receive an increased retirement benefit if their beneficiary predeceases them. Their benefit will increase to the benefit that they would have received under Option A, the option that does not provide for a beneficiary. The act allows for benefit adjustments after April 2, 2001 and does not allow for any retroactive benefits. Based upon the number of eligible retirees and their respective ages, we do not expect acceptance of this act to have any significant impact on the Town’s annual appropriation requirements and we feel that this is very important in keeping some parity between the separate classes of Retirees.

SELECTMEN’S RECOMMENDATION

The purpose of Article 8 is to treat the Non-Contributory members of the Retirement System in the same manner as the Contributory members in terms of the so-called “Pop-Up” provision. At the 1999 Annual Town Meeting, the Town accepted the provisions allowing Contributory members to have the “Pop-Up” option available to them. Chapter 411 of the Acts of 2000 made the option available to Non-Contributory members. Acceptance by Town Meeting will give Non-Contributory members the same option as Contributory members.

The "Pop-Up" provision allows retirees who chose Option C (the Survivor Option), which provides an allowance to their spouse after their death (this results in a lesser monthly allowance for the retiree), to revert to Option A and receive their full retirement allowance should they be predeceased by their spouse. There are currently only eight people who fall into this category, so the costs associated with the article are relatively minor. Six of these eight people are more than 80 years old, the oldest being 87, further diminishing the cost implications of the article. The estimated difference between the Option C yearly allowance and the Option A yearly allowance for a Non-Contributory member is \$4,625 per year of his/her remaining years.

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

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This Article asks the Town to adopt legislation (Massachusetts General Laws, Chapter 411 of the Acts of 2000 signed by the Governor on January 12, 2001) which would extend to a small group of non-contributory retirees an opportunity that the Town already adopted for contributory members in May of 1999. Known as a "pop-up allowance," it is directed to retirees who elected Option C of the retirement plan. Option C is a spousal option whereby a married retiree could opt to receive a lower monthly amount while both were alive in return for the spouse continuing to receive a benefit after the retiree's death. The "pop-up allowance" permits an Option C retiree to "pop-up" to a larger monthly payment in the event that his or her spouse pre-deceases them.

DISCUSSION

Brookline's pension system is made up of several classes of retired employees. The oldest group were hired and employed during a period when the entire cost of their retirement was born by the Town and the State. They did not financially contribute to their pension during their term of employment.

A public hearing was held on 3 April 2001. The retirement plan is a defined benefit plan. From an actuarial viewpoint, the expected joint survivorship is longer than that of the pensioner alone - hence a reduced monthly payment went to those who selected Option C in the expectation that it would continue to be paid over a longer time period. This legislation would permit the higher payment to be made to those pensioners whose spouse has already, or may in the future, pre-

decease them. If Town Meeting accepts this legislation, the effective date is April 12, 2001 for those whose spouse has already pre-deceased them; for others, it would be in the fiscal year following their spouse's death. If their spouse does not pre-decease them, there will be no change in their monthly payments other than the COLA payments as approved by the Retirement Board on a system-wide basis.

These retirees are now in their 70's and 80's, and only number 26 in all. Of these 26, only 8 are eligible for the "pop-up allowance." Even if all the spouses were to die in this one year, the total one year cost has been calculated to be \$37,000. A far more likely scenario, however, is that any increased cost for a few individuals will be offset by the gradual attrition of this group as a whole. At present, any savings in the Town's annual contribution is re-directed to the retiree group health trust fund. Impacts will be minimal.

RECOMMENDATION

Accepting this legislation would place a small group of non-contributory pensioners on a more equal footing with their contributing counterparts. By a unanimous vote, the Advisory Committee recommends FAVORABLE ACTION on the following vote.

VOTED: That the Town accept the provisions of Chapter 411 of the Acts of 2000 that allows for an automatic "Pop-Up" for the eligible members of the Non-Contributory Retirement System on the same basis as the eligible members of the Contributory Retirement System.

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ARTICLE 9

NINTH ARTICLE

To see if the Town will amend the By-Laws of the Town of Brookline by adding a new Article 4.7, entitled: Living Wage By-Law, in PART IV, to read as follows:

ARTICLE 4.7 LIVING WAGE BY-LAW

SECTION 4.7.1 SHORT TITLE

This By-Law shall be known as the “Living Wage By-Law.”

SECTION 4.7.2 FINDINGS

Town Meeting finds the following:

- (a) The wages of many workers have not kept pace with the cost of providing for themselves or their families.
- (b) Town Meeting must ensure that taxpayers’ dollars are used responsibly to improve the economic security and well-being of town employees.
- (c) The town government must lead town businesses and contractors by example to engage in and support fair wage practices in Brookline as described herein.

SECTION 4.7.3 LIVING WAGE

- (a) The town of Brookline (“town”) shall pay each of its employees no less than \$10.00 an hour except as provided in SECTION 4.7.6 and in collective bargaining agreements with the town under G.L. c. 150E, section 7.
- (b) All town employees of six months or more in any twelve month cycle, except as provided in SECTION 4.7.6, who work 20 or more hours per week and who are not offered group health insurance or who are offered group health insurance but are required to pay more than 50% of the cost of coverage for themselves and their dependents, if any, shall be paid no less than \$12.00 an hour.
- (c) The wage prescribed in paragraphs (a) and (b) of this SECTION 4.7.3 shall be known as the “living wage” and shall be adjusted annually by the same percentage

- (d) and on the same schedule relative to wage adjustments negotiated for town employees by the AFSCME collective bargaining unit, beginning in the year 2002.

SECTION 4.7.4 NOTICE

The town shall provide each employee with a fact sheet about this By-Law and shall post notices about the By-Law in conspicuous locations in town buildings. These fact sheets and posters shall include:

- (a) notice of the living wage amount;
- (b) a summary of the By-Law provisions;
- (c) notice that in the event of town noncompliance, an employee may contact the Comptroller, or the Board of Selectmen or School Committee, or file a complaint with the Superior Court Department of the Commonwealth of Massachusetts.

SECTION 4.7.5 NONDISCRIMINATION

The town may not avoid the requirements of SECTION 4.7.3 by laying off or otherwise terminating the employment of an employee with the intention of replacing such employee with an employee who, under SECTION 4.7.6, is not eligible for the living wage. The town shall not fund wage increases required by this By-Law, or otherwise respond to the provisions of this By-Law, by reducing the health insurance, pension, vacation, or other non-wage benefits of any of its employees unless such a reduction is consistent with a reduction of benefits for town employees in the AFSCME collective bargaining unit. The town shall not discharge, reduce the compensation of or otherwise retaliate against any employee for making a complaint to the town or using any civil remedy to enforce rights under this By-Law.

SECTION 4.7.6 EXCEPTIONS

This By-Law shall not apply to:

- (a) any employee who is under 22 years of age and is participating in part-time or seasonal work which does not exceed six months in duration in any twelve month cycle;
- (b) any person participating in a work-study or cooperative educational program or whose position is funded by Community Development Block Grant monies;
- (c) all Putterham Meadows Golf Course Rangers;
- (d) all volunteers and all persons appointed or elected to town committees;

(e) all elected officers of the town.

SECTION 4.7.7 SEVERABILITY

If any portion or provision of this By-Law is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

or act on anything relative thereto.

The proposed by-law requires that a living wage be paid to town employees—that is a wage sufficient to support them.

Vote to be offered by the petitioner:

VOTE: To amend the By-Laws of the Town of Brookline by adding a new Article 4.7, entitled: Living wage By-Law, in PART IV, to read as follows:

ARTICLE 4.7 LIVING WAGE BY-LAW

SECTION 4.7.1 TITLE

This By-Law shall be known as the “Living Wage By-Law.”

SECTION 4.7.2 FINDINGS

Town Meeting finds the following:

- (a) The wages of many workers have not kept pace with the cost of providing for themselves or their families.
- (b) Town Meeting must ensure that taxpayers’ dollars are used responsibly to improve the economic security and well-being of town employees.
- (c) The town government must lead town businesses and contractors by example to engage in and support fair wage practices in Brookline as described herein.

SECTION 4.7.3 LIVING WAGE

- (a) The town of Brookline (“town”) shall pay each of its employees no less than \$10.30 an hour except as provided in SECTION 4.7.6 and in collective bargaining agreements with the town under G.L. c. 150E, section 7.
- (b) All town employees of six months or more in any twelve month cycle, except as provided in SECTION 4.7.6, who work 20 or more hours per week and who are not offered group health insurance or who are offered group health insurance but are required to pay more than 50% of the cost of coverage for themselves and their dependents, if any, shall be paid no less than \$12.00 an hour.
- (c) The wage prescribed in paragraphs (a) and (b) of this SECTION 4.7.3 shall be known as the “living wage” and shall be adjusted annually by the same percentage and on the same schedule relative to wage adjustments negotiated for town employees by the AFSCME collective bargaining unit, beginning in the year 2003.

SECTION 4.7.4 NOTICE

The town shall provide each employee with a fact sheet about this By-Law and shall post notices about the By-Law in conspicuous locations in town buildings. These fact sheets and posters shall include:

- (a) notice of the living wage amount;
- (b) a summary of the By-Law provisions;
- (c) notice that in the event of town noncompliance, an employee may contact the Comptroller, or the Board of Selectmen or School Committee, or file a complaint with the Superior Court Department of the Commonwealth of Massachusetts.

SECTION 4.7.5 NONDISCRIMINATION

The town may not avoid the requirements of SECTION 4.7.3 by laying off or otherwise terminating the employment of an employee with the intention of replacing such employee with an employee who, under SECTION 4.7.6, is not eligible for the living wage. The town shall not fund wage increases required by this By-Law, or otherwise respond to the provisions of this By-Law, by reducing the health, insurance, pension, vacation, or other non-wage benefits of any of its employees unless such a reduction is consistent with a reduction of benefits negotiated for town employees by a collective bargaining unit. The town shall not discharge, reduce the compensation of or otherwise retaliate against any employee for making a complaint to the town or using any civil remedy to enforce rights under this By-Law.

SECTION 4.7.6 EXCEPTIONS

This By-Law shall not apply to:

- (a) any part-time employee under the age of 21 and any full-time employee under the age of 21 who works less than six months in any twelve month cycle;
- (b) any person participating in a work-study or cooperative educational program or whose position is funded by Community Development Block Grant monies;
- (c) all Putterham Meadows Golf Course Rangers;
- (d) all volunteers and all persons appointed or elected to town committees;
- (e) all elected officers of the town.

SECTION 4.7.7 SEVERABILITY

If any portion or provision of this By-Law is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

SECTION 4.7.8 EFFECTIVE DATE

This By-Law shall take effect July 1, 2002.

SELECTMEN'S RECOMMENDATION

Article 9 is a petition article that would amend the Town By-Laws by adding a Living Wage By-Law. At the 2000 Annual Town Meeting a vote under Article 17 established a Moderator's Committee "to study the requirements for and to consider a by-law that provides a Living Wage for Town employees and employers of those doing business with the Town or receiving subsidies or abatements from the Town." It required a report back at this 2001 Annual Town Meeting.

The petitioner of this article, who was also the petitioner of Article 17 of the 2000 Annual Town Meeting, is a member of the Moderator's Committee. She submitted this article as an individual citizen; it is not an article filed by the Moderator's Committee. This point needs to be clear: Article 9 is not the result of the Moderator Committee's work. In fact, it was filed because a

majority of the Moderator's Committee did not believe its work was done; the majority felt that further study was needed.

There is an issue of process that needs to be discussed. We are debating this article because a minority of the Moderator's Committee disagreed with the majority and felt that they were ready to submit a report of their own actions; further, they believed they were ready to submit a warrant article calling for a Living Wage By-Law. It is this process issue that causes this Board to recommend No Action and refer the article back to the Moderator's Committee for further review.

The standard practice is for a Moderator's Committee to undertake all actions necessary to complete its mission and report back to the specified Town Meeting. If support for the Committee's findings and/or recommendations is not unanimous, the dissenting minority is able to, and encouraged to, submit a Minority Report that is part of the Moderator Committee's report published in the Combined Reports. In this instance, the minority disagreed that further study was necessary and filed the article calling for the creation of a Living Wage By-Law -- even though the majority strongly believes that there are numerous outstanding issues, some of which are detailed below. In addition to the outstanding issues, the Committee Chair underwent surgery in mid-March, making completion of the Committee's work impossible.

There are four major outstanding issues that need to be highlighted:

- (f) Public Hearing – the Moderator's Committee never held a town-wide public hearing to involve the general public and business community.
- (g) Coverage – it is not entirely clear who is covered and who is exempt. Each version of the article changes the coverage, making analysis very difficult.
- (h) Cost – the exact cost of the article is not clear. Preliminary reviews produced estimates ranging from a high of \$200,000/year to a low of \$25,000/year. The fact that who is covered and who is exempt continues to change is the major factor in the inability to accurately determine the cost impacts.
- (i) Compression – the cost of compression” – a term also known as the “trickle down effect” – needs to be determined. The estimates range from 5%-10% of the actual cost of the Living Wage requirement to more than \$100,000.

The simple fact there have been five amendments to the article since it was first submitted speaks quite clearly to the fact that further study is necessary.

Since past practice was not followed, coupled with the obvious need for further study, the Board unanimously recommends FAVORABLE ACTION on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

Background

The Petitioner, Patricia Connors, a Town Meeting Member from Precinct 2, first filed a Living Wage Warrant Article for the Spring Town Meeting in 2000. The issues surrounding this matter were referred to a Moderator's Committee for a report at this Spring Town Meeting 2001. The Moderator's Committee has been meeting in the interim but has not yet issued a report and it is expected that the Committee will not have a substantive report by Town Meeting, due in part to the serious ill health of its Chair and to the complexity of the issues surrounding the Living Wage By-Law. However, Ms. Connors has filed a Warrant Article with a proposed By-Law for this Spring '01 Town Meeting. The Moderator's Committee voted 4 to 2 to recommend No Action on Warrant Article 9 because it still has substantial work to do to answer the financial questions surrounding the By-Law.

Discussion

The Petitioner's proposed By-Law sets a Living Wage of \$10.30, effective July 1, 2002 for all covered Employees. That amount would be adjusted annually to the same extent as adjustments negotiated for employees in the Local AFSCME collective bargaining unit, beginning in 2003. The employees who are not covered are those who fall into one of the following exceptions, Section 4.7.6:

- (a) any employee who is under 22 years of age and is participating in part-time or Seasonal work which does not exceed six months in duration in any twelve Month cycle;
- (b) any person participating in a work-study or cooperative educational program or Whose position is funded by Community Development Block Grant monies;
- (c) all Putterham Meadows Golf Course Rangers;
- (d) all volunteers and all persons appointed or elected to town committees;
- (e) all elected officers of the town.

The By-Law, as proposed by the Petitioner, also provides in Section 4.7.3, that anyone who works more than six months out of the year, 20 hours or more per week, and who is not offered group health insurance or who are offered group health insurance but who are required to pay more than 50% of the cost of such insurance, shall be paid no less than \$12.00/hour. At present, all Town employees who work 20 hours or more are offered group health insurance and under the current plan, the Town pays 75% of the cost, so this provision would not affect any Town employees. The Petitioner has said that she included it to provide a model for private employers, but another member of the Moderator's Committee expressed concern about whether this may suggest that the Town is willing to make this issue a point in Collective Bargaining.

More than 90% of the Town's employees already earn more than \$10.00/hour. [We were originally discussing a living wage of \$10.00/hour and implementation in July '01. The Petitioner has since amended her language to \$10.30/hour and implementation in July '02.] The main impact of the Living Wage article would hit the library and recreation department budgets. At the library, there are a number of library pages (people who reshelve books) who earn less than \$10.00/hour. Many of them are High School students who just work a couple of afternoons each week. Mr. Flaherty the Director of the Library has indicated that he would like to bring their wages up but he is concerned that if they are brought all the way up to \$10.00, their wages will not only have a significant direct impact on his budget (estimates from the 6th floor suggested that the direct impact would be \$18,000 for '02 but this was based on the \$10.00/hour figure, rather than the \$10.30 that we are now discussing for '03 and the library now has only 8 pages, when fully staffed it has 18, so that figure might go to \$40,000), but in addition that his budget would feel a substantial "Compression" effect. In other words, if the people presently making \$6-8/hour go up to \$10.30 then the more skilled library workers who presently make between \$12-13/hour would also demand an increase. We were unable to get any legitimate estimates as to how many employees might be included in this Compression effect and as to what it was likely to cost.

Mr. Lynch, the Recreation Director, also indicated that he has a number of people who work year-round, but in many cases only very part-time on just one or two specific recreation programs, who would be impacted by the Living Wage Law. Some of his employees would fit into the exemption for those under 22 years of age who only work seasonally, but he presently has some students working at the Swimming Pool who work year-round and he also has 17 workers who are over 22 but earn less than \$10.00/hour. The sixth floor has estimated that the direct effect on the recreation department budget would be \$33,000 in '02, based on the \$10.00/hour figure. Mr. Lynch is also very concerned about the Compression effect, particularly at the Swimming Pool. Again, we were unable to get any legitimate estimates as to how many employees might be included in this Compression effect and as to what it was likely to cost.

A number of members of the Advisory Committee expressed an inclination to support a Living Wage, but would like to get a report from the Moderator's Committee, as is our custom when referring items to such a committee. In the course of the discussion with the Petitioner there were a number of possible revisions suggested, some of which were accepted by the Petitioner.

However, the Advisory Committee did not yet feel that it had answers to some important questions, such as the financial impact of the Compression Effect on the affected departments and the appropriate language as to scope of the By-Law and the possible exemptions (the Cambridge and Somerville By-Laws have significant differences in language). Therefore, the Advisory Committee felt that the Moderator's Committee was correct in their majority vote that they had more work to do. A By-Law could still be implemented by July 2002 if voted at the Fall Town Meeting.

Recommendation

The Advisory Committee recommends FAVORABLE ACTION on the following vote:

VOTED: To refer the article back to the Moderator's Committee for further study and a report to the Fall Town Meeting.

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ARTICLE 10

TENTH ARTICLE

To see if the Town will amend the By-Laws of the Town of Brookline by adding a new Article 4.7 to read as follows:

ARTICLE 4.7

PUBLIC HEARING BEFORE PRELIMINARY DESIGN STAGE

In order to ensure that all plans for the substantial construction, alteration or repair of a park, recreation area or public building (the improvement) serve the expressed needs of the primary community to be served by the improvement, the elected or appointed committee requesting the improvement shall, prior to a preliminary design stage and prior to the finalizing and filing of any request for a grant or other financial assistance for the improvement, hold a public hearing to review the program for and the object and scope of the proposed improvement, including schematic design studies for the improvement, if they are available. Written notice of the time and place of the hearing shall be given to all abutters to the improvement and to all Town Meeting Members from the district within which the proposed improvement is located, seven days at least prior to the hearing.

or act on anything relative thereto.

There have been incidents such as at the Lawrence School, Parkland, and Garage Project. A project oversight committee composed of three people, one selectmen, one school committee person, and one building commissioner had the power to submit plans to the state for a \$18.5 million dollar school and parkland project without any notice to the neighborhood about what they were doing. There were no public hearings or votes by the full board of selectmen or school committee to submit this project. This by law addition would require a public hearing and notification to the abutters and town meeting members before the full board and school committee votes such a preliminary design. This insures that the neighborhood most affected by such changes is heard in the beginning of the process and not ignored and kept out of the process until it is on the way to being finalized.

SELECTMEN'S RECOMMENDATION

Article 10 is a petitioned article that would mandate a public hearing to review the program for and scope of a project before the preliminary design stage and prior to the filing of a grant proposal. The petitioner and supporters of the article filed it in response to what they believed were shortcomings in the Lawrence School Project public process.

The Board has publicly stated that the public process surrounding the Lawrence School Project could have been improved. However, this article does not properly address the concerns raised by the petitioner. While we support the context of the article, its solution to the public process issues for major reconstruction projects of Town and School buildings is piecemeal and should be more comprehensive and thorough.

Therefore, the Board unanimously recommends that Article 10 be referred to a Selectmen's Committee, the charge of which is to define the public process for all major capital improvements and new construction of Town and School buildings. The composition of the committee is recommended to include a representative from the Board of Selectmen, School Committee, Library Trustees, Advisory Committee, Building Commission, and Park and Recreation Commission, in addition to three neighborhood representatives. It should be staffed by the Building Commissioner, Commissioner of Public Works, Director of Planning and Community Development, and the Assistant Superintendent of Schools for Administration and Finance.

A majority of the Board of Selectmen recommends FAVORABLE ACTION on the following vote.

VOTED: To refer Article 10 to a Selectmen's Committee for the purpose of defining the public process for all major capital improvements and new construction of Town and School buildings. The review should encompass the content, timing and responsibility of notice for public input and who should be notified. The public process should be clarified from the feasibility stage through the design development phase.

The Committee should include the following representation.

Boards, Commission, Neighbors

Board of Selectmen	1
School Committee	1
Trustees of the Public Library	1
Advisory Committee	1
Building Commission	1
Park & Recreation Commission	1
Neighborhood Representatives	3

Staff or Designee

Building Commissioner
 Commissioner of Public Works
 Director of Planning and Community Development
 Assistant Superintendent of School Administration and Finance

ADVISORY COMMITTEE'S RECOMMENDATION

Summary and Background of Article 10: Article 10 was submitted to ensure that adequate public hearings be held prior to the submission of plans at the preliminary stage. The article proposes requiring written notice to all abutters and Town Meeting Members of the district seven days prior to any public hearing

It became clear that much of the incentive for this article was the process which took place during the design of the proposed Lawrence School project; more specifically, the potential of including a 50 space parking garage on the site. The garage, as we understand it, was proposed later in the design process but is no longer a part of the project.

The Lawrence School project also involves use of what the community feels is the principal open space for the neighborhood for school and parking use. There was initially some confusion as to the boundary between the school and park property. Mr. Turner said that he clarified this issue early in the project design, which resulted in a significant change to the plan. The petitioners were unaware that this issue had been addressed.

Brookline has an elaborate process for the development of public projects. In this case the process has extended over many years, which makes it difficult for abutters and those with particular interest to keep informed throughout the evolution of the project. Several of the petitioners compared the process that was implemented by the Library Trustees for the improvements now under construction for the Main Library with those for the Lawrence School. The former was exemplary, in the petitioners' views, of the correct process. In the Lawrence School case there was criticism that three representatives of the Building Commission's subcommittee were making decisions without sufficient public input.

Discussion: All acknowledge that broad public input as projects develop is essential. The question before Town Meeting is whether or not adequate provisions for public input are now in place?

The Advisory Committee discussed how the need for adequate public input intersects with the need to tie into the budgetary process and the timing of obtaining state and local regulatory requirements. The Selectmen have offered a compromise solution in which this matter would be referred to a Selectmen's Committee, which would define the public process for all major capital improvements and new construction of Town and School buildings. The majority of the Advisory Committee believed that a standardized process would be an improvement over the present system.

Recommendation: The Advisory Committee unanimously recommends FAVORABLE ACTION on the vote offered by the Selectmen on Article 10.

XXX

ARTICLE 11

ELEVENTH ARTICLE

To see if the Town will amend SECTION 2.09 of the Zoning By-Law to read as follows:

SECTION 2.09 FAMILY

One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided, that a group of five or more persons, who are not within the second degree of kinship, as defined by civil law, shall not be deemed to constitute a family.

or act on anything relative thereto.

The definition in the proposal deletes the words “to each other” as they appeared between “second degree of kinship” and “, as defined by civil law,”

April 19, 2001

**PLANNING BOARD REPORT AND RECOMMENDATION ON
PROPOSED ZONING BY-LAW AMENDMENT**

**AMENDMENT TO ARTICLE 2 DEFINITIONS, SECTION 2.09 FAMILY,
OF THE TOWN OF BROOKLINE’S ZONING BY-LAW**

In accordance with Chapter 40A of the General Laws of the Commonwealth of Massachusetts and, after due notice has been given, the Planning Board held a public hearing, jointly with the Planning and Regulation Subcommittee of the Brookline Advisory Committee, on April 19, 2001 in Town Hall on a proposed amendment to Article 2 Definitions, Section 2.09 Family, of the Town of Brookline’s Zoning By-Law. The notice for the public hearing was published in the Brookline TAB on April 5 and 12, 2001. Copies of the notice were sent to all Town Meeting members, neighborhood associations, Town departments, Massachusetts Department of Housing and Community Development, Metropolitan Area Planning Commission, Planning Boards and agencies of Boston and Newton and other interests. The minutes of the public hearing and record

of citizen attendance are on file with the Town of Brookline's Department of Planning and Community Development.

Existing Zoning By-Law

The Town's Zoning By-law currently defines a Family as follows:

Section 2.09 Family

One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided that a group of five or more persons who are not within the second degree of kinship to each other, as defined by civil law, shall not be deemed to constitute a family.

The current definition of a Family was last amended by Town Meeting on December 13, 1971.

Proposed By-Law Amendment

The proposed amendment to the definition of a Family is as follows:

Section 2.09 Family

One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided, that a group of five or more persons, who are not within the second degree of kinship **[to each other]**, as defined by civil law, shall not be deemed to constitute a family.

The amended definition deletes the words "to each other" as they appear in [bracketed] and **bold** type above between "second degree of kinship" and "as defined by civil law". The amended definition of Family has been recommended by Town Counsel in order to insure that Brookline's Zoning By-Law addresses case law (Moore v. City of East Cleveland) and offers greater clarity in the definition of a Family in order to properly include the "tradition" of an "extended family."

Findings and Recommendation

At the close of the April 19, 2001 public hearing on the proposed amendment to the Town's Zoning By-Law, **the Planning Board voted unanimously to recommend approval of the proposed amendment to Article 2 Definitions, Section 2.09 Family**, as defined above, and finds that the amendment will establish a more appropriate definition of a Family as recommended by Town Counsel.

Jerome I. Kampler, Chairman

Kenneth M. Goldstein, Clerk

Linda K. Hamlin

Mark J. Zarrillo

Steven A. Heikin

SELECTMEN'S RECOMMENDATION

Article 11 amends Section 2.09 of the Town's Zoning By-Law by changing the definition of the word "Family". The amendment is necessary in order to insure that Brookline's Zoning By-Law complies with a decision of the United States Supreme Court (*Moore v. City of East Cleveland*) and offers greater clarity in the definition of a family. The clarified definition properly includes the "tradition" of an "extended family".

The Board of Selectmen unanimously recommends FAVORABLE ACTION on the following vote.

VOTED: That the Town amend SECTION 2.09 of the Zoning By-Law to read as follows:

SECTION 2.09 FAMILY

One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided, that a group of five or more persons, who are not within the second degree of kinship, as defined by civil law, shall not be deemed to constitute a family.

ADVISORY COMMITTEE'S RECOMMENDATION

Summary and Background of Article . Article 11 is a amendment proposed by Town Counsel to the definition of “family” in section 2.09 of the Zoning By-Law to avoid a potential legal challenge to the constitutionality of the definition.

The definition of family is used throughout the By-law to define “single family” use or occupancy of residential units. It applies to rental units and condominiums, as well as traditional single family homes. The existing definition contains two limitations. First the occupants of a single dwelling unit must live “as a single non-profit housekeeping unit.” In practice this ordinarily means that the unit contains one kitchen used by all the occupants. Second the definition limits the number of unrelated persons who can live in a single unit “as a family” to five or more persons “who are not within the second degree of kinship *to each other* as defined by civil law.” The intent and purpose of this provision is to prevent “stuffing” a single dwelling unit with a large number of unrelated persons, which has the effect of driving up the price of housing in the Town and often has an undesirable impact on parking, traffic and the general livability of the neighborhood.

The proposed amendment simply deletes the words “to each other” which are italicized in the language quoted above which defines the required family relationship among the occupants of unit. It makes no other change in the definition. Town Counsel recommends the amendment because there is a United States Supreme Court decision which holds that a definition which contains the phrase is too restrictive, is not related to any valid zoning purpose, and is therefore invalid.

Discussion. The Committee will not try to discuss the complications of the Supreme Court’s decision or the merits of the line which it drew. The Committee is satisfied, however, that the change is faithful to the intent and purpose of the existing provision in the By-law and will help to avoid a potential legal challenge to the provision based on the Supreme Court decision, which state courts are bound to apply.

Recommendation. The Committee voted unanimously to recommend FAVORABLE ACTION on the vote offered by the Board of Selectmen.

XXX

ARTICLE 12

TWELFTH ARTICLE

To see if the Town will amend Section 4.30, Table of Use Regulations, of the Zoning By-law, by creating a new Principle Use as part of the Institutional, Recreational & Educational Uses category. The new Principle Use shall be as follows:

		S	SC	T	M	L	G	O	I
18A. Private club, operated for profit and for members only, solely for the purpose of providing physical fitness exercise, therapy, rehabilitation and health related services.	No	No	No	No	No	No	SP	SP	No

or act on anything relative thereto.

**PLANNING BOARD REPORT AND RECOMMENDATION ON
PROPOSED ZONING BY-LAW AMENDMENT**

**AMENDMENT TO ARTICLE 4 USE REGULATIONS,
SECTION 4.30 TABLE OF USE REGULATIONS,
ADDITION OF THE FOLLOWING NEW PRINCIPLE USE, SUBJECT TO A SPECIAL
PERMIT, AS PART OF THE
INSTITUTIONAL, RECREATIONAL & EDUCATIONAL USE CATEGORY**

**18A. PRIVATE CLUB, OPERATED FOR PROFIT AND FOR MEMBERS ONLY, SOLEY FOR
THE PURPOSE OF PROVIDING PHYSICAL FITNESS, EXERCISE, THERAPY,
REHABILITATION AND HEALTH RELATED SERVICES.**

April 19, 2001

In accordance with Chapter 40A of the General Laws of the Commonwealth of Massachusetts and, after due notice had been given, the Planning Board held a public hearing, jointly with the Planning and Regulation Subcommittee of the Brookline Advisory Committee, on April 19, 2001 in Town Hall. The subject of the public hearing was a proposed amendment to Article 4 Use Regulation, Section 4.30 Table of Use Regulations, of the Town of Brookline's Zoning By-Law.

The proposed amendment would create a new principle use 18A. Private club, operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health related services as part of the Institutional, Recreational & Educational Uses category, subject to a Special Permit (SP), in the G – General Business and O – Business and Professional Office districts.

The notice for the public hearing was published in the Brookline TAB on April 5 and 12, 2001. Copies of the notice were sent to all Town Meeting members, neighborhood associations, Town departments, Massachusetts Department of Housing and Community Development, Metropolitan Area Planning Commission, Planning Boards and agencies of Boston and Newton and other interests. The minutes of the public hearing and record of citizen attendance and correspondence are on file with the Town of Brookline’s Department of Planning and Community Development.

Existing Zoning By-Law

Article 4 Use Regulations, Section 4.30 Table of Use Regulations, of the Town of Brookline’s current Zoning By-Law does not exclusively identify a for profit, membership only, fitness and exercise facility as a principle use. However, the following two extremely broad principle uses associated with the Institutional, Recreational & Educational Uses category of the Zoning By-Law can be generally interpreted to enable fitness and exercise facilities.

	S	SC	T	M	L	G	O	I
16. Entertainment and recreation facilities operated as a gainful business, including but not limited to bowling alley, theater, and concert hall, provided that such use is housed in a structure sufficiently sound insulated so as to protect the neighborhood from inappropriate noise in any season.	No	No	No	No	No	SP	No	SP
18. Private club or lodge, operated not for profit and for members only, other than Use 13.	No	No	No	No	Yes	Yes	Yes	Yes

(Note: Use 13 refers to recreational facilities owned and operated by a non-governmental agency.)

Today there are approximately three uses that could be classified as for-profit, membership only, fitness, health and exercise related uses within the Town of Brookline. These uses are located within G – General Business districts.

Proposed Zoning By-Law Amendment

The proposed amendment to Article 4 Use Regulations, Section 4.30 Table of Use Regulations, is as follows:

	S	SC	T	M	L	G	O	I
18A. Private club, operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health related services.	No	No	No	No	No	SP	SP	No

Findings and Recommendations

During the April 19, 2001, public hearing, the Planning Board considered several potential amendments and alternatives to the proposed Zoning By-Law amendment, including the following amendment:

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

The Planning Board recommends that the above modification should be considered as a revision to the proposed Zoning By-law amendment since it will link use 18 to the appropriate off-street parking requirement stipulated by Section 6.11 c of the Zoning By-law. In addition, the Planning Board finds that the proposed revised amendment to Section 4.30 Table of Use Regulations will address the following.

1. The recent Report 3, Use Regulations (February 2001), prepared for the Town of Brookline's Zoning By-Law Commission recommends that periodically a review and examination of the listing of uses and definitions be completed to insure that the Table of Use Regulations "succinctly and appropriately" describes and defines desired land uses.
2. The current Table of Use Regulations does not define a precise principle use related to exercise or fitness related facilities. The character, scale, activities, intensity, traffic generation, hours of operation, spatial requirements and other features associated with the proposed principle use are significantly different from the broad range of for-profit entertainment and recreation facilities such as bowling alleys, concert halls and theaters as currently grouped together as part of principle use 16 which is defined as a Special Permit use in G – General Business and I – Industrial Services districts.
3. A private not-for-profit exercise or fitness related club could conceivably be permitted today, without a Special Permit, within the L, G, O and I districts as defined by Principle Use 18.
4. The proposed amendment to the Table of Use regulations would continue to enable existing exercise and fitness facilities to operate in G districts, as Special Permit (SP) uses, without creating a new or greater degree of nonconformity.
5. The Town of Brookline currently has only one true I – Industrial Services district remaining along Brookline Avenue and River Road. Both for-profit and private exercise and fitness clubs may be permitted within this limited and diversified zoning district. No such use exists within this district today. The proposed amendment would more appropriately focus the subject use to G and O districts.
6. The Town's two O – Business and Professional Office districts currently permit a number of institutional, recreational and educational uses, both private and public, that could incorporate similar activities as associated with the proposed principle use.
7. The Town's six G and two O districts, given the concentration of employees and customers, surrounding residential densities and proximity to major arterials and public transit, are ideally suited as locations to focus the subject principle use, subject to a Special Permit (SP).
8. As a proposed Special Permit (SP) use, both the Planning Board and Board of Appeals would be required to review plans and specification under Section 9.5(a) and, as warranted, attach conditions and safeguards to protect the surrounding neighborhood as defined by Section 9.5(b). The Planning Board will also be responsible for Community and Environmental Impact and Design review as specified by Section 5.09.

9. All dimensional, floor area, height, parking, circulation, signage and related requirements associated with the subject category of use would continue to apply within the G and O districts.

10. The proposed introduction of a private fitness and exercise facility as a Special Permit (SP) use within the O district would not diminish or modify the current concentration of retail and consumer service uses primarily within the G and L districts, while continuing to permit office, institutional, recreational, educational, medical and related uses in the O, G and L districts.

At the close of the April 19, 2001 public hearing on the proposed Zoning By-Law amendment, the **Planning Board voted unanimously to recommend approval of the above modified amendment to Article 4, Use Regulations, Section 4.30 Table of Use regulations.**

Jerome I. Kampler, Chairman

Kenneth M. Goldstein, Clerk

Linda K. Hamlin

Mark J. Zarrillo

Steven A. Heikin

SELECTMEN'S RECOMMENDATION

Article 12 amends Section 4.30, Table of Use Regulations, of the Town's Zoning By-Law by introducing a for profit, membership only, fitness and exercise facility as a principle use subject to a Special Permit within the General Business (G) and Business and Professional Office (O) districts. The Town's Zoning By-Law currently does not identify this specific use.

A recent report considered by the Zoning By-Law Commission, which is currently completing a comprehensive review of the Zoning By-Law, recommends that a periodic review of the Table of Use Regulations should be conducted to insure that desired land uses are incorporated. Today, there are at least three such uses situated within Brookline.

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

Given the fact that the Zoning By-Law Commission will be introducing an extensive number of proposed Zoning By-law amendments for consideration by Town Meeting, possibly as early as the upcoming fall Special Town Meeting, several members of the Board, even though in support of the proposed Article, concluded that the proposed amendment could be considered at that time.

However, the majority of the Board concurs with the following findings of the Planning Board and recommend that the Article proceed for consideration by Town Meeting.

- a. The recent Report 3, Use Regulations (February 2001), prepared for the Town of Brookline's Zoning By-Law Commission recommends that periodically a review and examination of the listing of uses and definitions be completed to insure that the Table of Use Regulations "succinctly and appropriately" describes and defines desired land uses.
- b. The current Table of Use Regulations does not define a precise principle use related to exercise or fitness related facilities. The character, scale, activities, intensity, traffic generation, hours of operation, spatial requirements and other features associated with the proposed principle use are significantly different from the broad range of for-profit entertainment and recreation facilities such as bowling alleys, concert halls and theaters as currently grouped together as part of principle use 16 which is defined as a Special Permit use in G – General Business and I – Industrial Services districts.
- c. A private not-for-profit exercise or fitness related club could conceivably be permitted today, without a Special Permit, within the L, G, O and I districts as defined by Principle Use 18.
- d. The proposed amendment to the Table of Use regulations would continue to enable existing exercise and fitness facilities to operate in G districts, as Special Permit (SP) uses, without creating a new or greater degree of nonconformity.
- e. The Town of Brookline currently has only one true I – Industrial Services district remaining along Brookline Avenue and River Road. Both for-profit and private exercise and fitness clubs may be permitted within this limited and diversified zoning district. No such use exists within this district today. The proposed amendment would more appropriately focus the subject use to G and O districts.

- f. The Town’s two O – Business and Professional Office districts currently permit a number of institutional, recreational and educational uses, both private and public, that could incorporate similar activities as associated with the proposed principle use.

As stated previously, the Board of Selectmen continue to assign a high priority to strengthening Brookline’s commercial areas. While the majority of the Board understands and appreciates the views of the dissenting members, we believe that the proposed introduction of a viable and appropriate commercial use as part of the Zoning By-Law as recommended by this Article should proceed. Therefore, a majority of the Board recommends FAVORABLE ACTION on the revised amendment offered by the Planning Board which is reflected in the following vote.

VOTED: That the Town amend Section 4.30, Table of Use Regulations, of the Zoning By-law, by creating a new Principle Use as part of the Institutional, Recreational & Educational Uses category. The new Principle Use shall be as follows:

S SC T M L G O I

18. Private Club or Lodge

(a) Private club, operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health related services.	NO NO NO NO NO SP SP NO
(b) Private club or lodge, operated not for profit and for members only, other than Use 13.	NO NO NO NO YES YES YES YES

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND

Article 12, is a proposal by the Planning Department calling for an amendment to the Zoning By-laws, adding a new Use Category 18a to the Article 4 Use Regulations. It creates a defined use where there has not been one for Health Club businesses. Its listing in the 4.30 Table of Use Regulations would still not allow its location at all within any of the four Residential districts,

type S, SC, T, & M. This use would only be allowed in two Business districts, G and O (and not L) and only then by Special Permit review. Industrial district I is felt to be "grandfathering" itself out as it were, within town, with a natural changeover to other more mixed residential and commercial uses, and so it will not be allowed there.

DISCUSSION

The closest existing category to the new 18a was 18 (proposed to be renumbered 18b) which is for a strictly "not for profit club or lodge." That use has always had fewer restrictions on it about where it can be located in town, none of which call for the Special Permit review process. Use category 16 was also considered as a group to include Health Clubs. As the proposed article notes, both existing 16 and 18 are "extremely broad principle uses associated with the Institutional, Recreational & Educational Uses category" that could be interpreted to allow fitness and exercise facilities. Category 16's group has traditionally included more of a public assembly use for theater, concert hall or even bowling alley use. There are currently four locations of health clubs in town and all are located within G, General Business districts. The Planning Department feels that the 18a use would fit well with G and O, Office uses because of their proximity to public transit, major roads and surrounding residential uses, and would benefit from the Special Permit review process, while not increasing any of the existing height, dimensional, and parking regulations, etc.

Two members of the public expressed concern that a potential Health Club use at the former cinema headquarters in Chestnut Hill would only add to congestion and difficulties crossing the intersections; issues that can be fully addressed by the Board during their standard Special Permit review process.

The Advisory Committee believes that, more often than not, the Planning Board's review during the Special Permit process has provided the best and sometimes only way that neighbors have of really being heard and where dealing with special concerns for traffic, public safety, environment and others are addressed. If needed in the future, new use group 18a would conservatively and appropriately regulate this popular use. It is also clear that from time to time use categories need review to insure that they "succinctly and appropriately" describe and define desired land uses, as recommended by our new Zoning By-Law Commission during their current review of our important town Zoning documents.

RECOMMENDATION

The Advisory Committee therefore unanimously recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

ARTICLE 13

THIRTEENTH ARTICLE

To see if the Town will amend the By-Laws of the Town of Brookline by adding a new SECTION 7.7.6, ANNUAL REPORT, to read as follows:

SECTION 7.7.6, ANNUAL REPORT

The Board of Selectmen shall include in the Annual Report of the Town a summary of the Town's achievements during the past year in implementing Sections 7.7.1, 7.7.2, and 7.7.3. Said summary shall describe, at least, efforts in, and results from, prioritizing and coordinating among various Town department objectives: (a) prompt and effective public education; (b) enforcement by warnings, citations, and tracking thereof; and (c) assistance to owners who have hardships.,

or act on anything relative thereto.

The past icy winter again brought into focus 30 years of frustration about sidewalk snow removal – beginning when fiscal constraints caused DPW and the selectmen to reduce sidewalk plowing from all 150 miles in town, to 75 miles (in 1969), then to 29 miles (1978). A 1983 Moderator's Committee chaired by the indefatigable Stanley Spiegel was supported by statements of great concern from, *inter alia*, the School Committee, the Council on Aging, ect.; and stated:

[T]own officialdom and private individuals and groups overwhelmingly agreed that there is a need for more and better sidewalk snow clearance..... [T]here was no disagreement that the present situation presents considerable hardship for large segments of our populace, especially (but not exclusively) young school children, handicapped citizens, and elderly.

In December 1983, Town Meeting passed a *Resolution* “urging each property owner owning citizen as a matter of civic responsibility to maintain their [sic] abutting sidewalks in a safe and passable condition following each and every snow-fall .. [and] the Board of Selectmen [to] take leadership initiative to encourage and educate property owners to maintain their sidewalks.”

A 1987 Town Meeting passed our current by-law, now Art. 7.7, *Removal of Snow and Ice from Sidewalks*, mandating that “sidewalks[s] ...contiguous to...[one's property] be maintained in a non-slippery condition suitable for pedestrian travel.”

By May of 1994, continuing frustration triggered passage of another (petition) warrant article, a Resolution (then-Art. 20), "Shoveling Enforcement":

"Be It Hereby Resolved:

WHEREAS fiscal constraints preclude the Town from widespread plowing of sidewalks, which the Town used to do; and

WHEREAS, consequently, in 1987 the Town passed ARTICLE XVIII, § 19b of the Town By-Laws requiring property owners or their agents to clear snow and ice from sidewalks contiguous to their property, and to avoid placing it on a public way; and.

WHEREAS there are property owners who consistently ignore the aforesaid By-Law, and municipally-owned properties frequently not cleared, creating public safety problems for residents, particularly children and senior citizens; and

WHEREAS the Town has not sufficiently publicized or enforced the said By-Law;

NOW, THEREFORE, the 1994 Annual Town Meeting requests that the Board of Selectmen, in consultation with the Committee on Town Organization and Structure, present for discussion at the next Town Meeting a report proposing a plan for enforcement of the said By-Law. Said report should discuss, at least, consideration of:

- 1. whether or not §19b needs any amendment(s), including language clarifying the responsibility of owners and agents (regardless of their lack of occupancy of the premises or lack of knowledge of any violation); and if so, a proposed warrant article;*
- 2. a process for the taking and processing of complaints (including at least a named individual, a phone number, and a form), as well as a system for keeping public records of complaints and enforcement results at individual properties in each category listed in #5, below;*
- 3. a plan for sidewalk snow removal adjacent to Town and municipally-owned properties;*
- 4. a timetable and details for sending both occupants and owners of all properties, first, a clear and noticeable annual reminder of the importance, complaint process, and enforcement plans for this By-Law; and, second, notices of both warnings and subsequent penalties;*
- 5. and a process for the Selectmen and the Commissioner of Public Works, each year at the Annual Town Meeting, to jointly give a report (both oral and written, with an opportunity for discussion) detailing the enforcement of this By-Law during the past winter. Said report shall include, at a minimum, both a quantitative and a qualitative analysis of enforcement efforts and results -- including complaints received and enforcement results in each of the following categories:*
 - (a) Municipally-owned property;*

- (b) *Commercial and institutionally-owned property; and*
 (c) *Residential property.*”

In their Combined Report on that Resolution, the 1994 selectmen stated, “[T]his past winter has pointed out, quite painfully, the shortcomings of our present system. The Board shares the concerns of the petitioners and is committed to implement measures to address this serious problem.” The Advisory Committee added, “[t]here has not been much emphasis on compliance nor has there been sufficient public education and notification.”

Seven years later, little has changed -- except incremental dangers and frustration levels of walkers. The 1994 Resolution -- and sporadic prodding from some town meeting members -- have had some, but only slight, impact. The limited DPW and enforcement personnel available are trying their best. But public education is annually late and unimpressive; warnings (72 through Jan. 24, 2001) are at best sporadic and usually restricted to complaint-driven ones; and help for elderly and disabled homeowners is effectively nonexistent.

The current warrant article is an effort, by requiring inclusion in the Annual Report, to institutionalize and prioritize a much more concerted effort -- hopefully (1) by more than DPW and (2) coordinated by the selectmen and Town Administrator -- to ameliorate this serious public safety problem.

SELECTMEN’S RECOMMENDATION

Article 13 is a petitioned article that would amend Town By-Laws, by adding a new Section 7.7.6, to require that the Town’s Annual Report include a summary of various actions related to the Town’s Snow Removal By-Law. Specifically, the summary would include “efforts in, and results from, prioritizing and coordinating among various Town department objectives: (a) prompt and effective public education; (b) enforcement by warnings, citations, and tracking thereof; and (c) assistance to owners who have hardships.

While a majority of the Board agree with the underlying logic behind the article, the majority recommends the following changes in the wording of the proposed by-law addition:

- 1.) “achievements” – we believe achievements is the wrong word to use here. What the summary should detail is the “efforts and results” in implementing the Snow Removal By-Law.

- 2.) the “efforts and results” should focus primarily on public education (how exactly do we measure “prompt and effective”?), enforcement, and assistance to owners (how is “hardships” defined?).

This article, as amended, will help put focus on a serious public safety problem and help develop a more concerted effort in ameliorating the issue.

Therefore, a majority of the Board recommends FAVORABLE ACTION on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:

The petitioners have brought this article to bring visibility and accountability to the current By-Law, Sections 7.7.1, 7.7.2, and 7.7.3, that covers the requirements for snow and ice removal from sidewalks contiguous to commercial, institutionally-owned, and residential property. The petitioners point out that since the Town began to reduce its sidewalk plowing in 1969, Town Meeting in several resolutions and by-laws has urged the Board of Selectmen to publicize and educate the public on the legal requirements for private snow removal from sidewalks. They are frustrated by late publicity provided by the Town to inform the public about the law, and the lack of enforcement of the by-law. The current warrant article is an effort, by requiring inclusion in the Annual Report, to institutionalize and prioritize a much more concerted effort to improve what the petitioners consider to be a serious public safety problem.

DISCUSSION:

The Department of Public Works is already obligated to provide Town Meeting with a yearly report as to enforcement related to sidewalk shoveling. The Commissioner of Public Works has offered to make this data available to the Selectmen for inclusion in the Annual Report if requested. The DPW issued over 300 warnings in 2000 and in 2001, but no tickets or citations. Some of the issues are lack of DPW personnel needed to issue tickets and clarity of policy to help the elderly in complying with the law. The petitioners note that Boston and Cambridge have similar ordinances for snow removal and have begun to issue a limited number of tickets with some positive results. The annual report is seen as an informational and educational tool to adequately keep the issue in the eye of the public. On the other hand, some are concerned that the article will encourage the Town to issue fines. The majority of the subcommittee is in agreement with the Selectmen’s amendment (below) which reports the Town’s performance relative to snow removal on sidewalks in the annual report. The Selectmen’s amendment uses broader language than the petitioner’s article in terms of the information reported. The major reasons for support of

the amended version are: 1) this information is readily available and will not cause additional expenses, and 2) the public is entitled to this information in a public format such as the annual report, and 3) publicity may encourage compliance with the by-law.

RECOMMENDATION:

The Advisory Committee, by a nearly unanimous vote, recommends FAVORABLE ACTION on the following vote.

VOTED: That the Town amend the By-Laws of the Town of Brookline by adding a new SECTION 7.7.6, ANNUAL REPORT, to read as follows:

SECTION 7.7.6, ANNUAL REPORT

The Board of Selectmen shall include in the Annual Report of the Town a summary of the Town's efforts and results during the past year in implementing Sections 7.7.1, 7.7.2, and 7.7.3, including, but not limited to, public education, enforcement and assistance to owners.

XXX

ARTICLE 14

FOURTEENTH ARTICLE

To see if the Town will amend the By-Laws of the Town of Brookline by adding to the end of SECTION 4.2.9, SELECTMEN'S REPORT, the following additional sentence:

It shall also contain a two-part section, with one part stating the full text of each Resolution which was adopted by Town Meeting during the year of the Report. The second part shall (1) list all prior Resolutions, beginning in 2001, adopted by Town Meeting which call for any action by the selectmen or Town departments; (2) summarize the "whereas" and "resolved" or action clauses of each; and (3) summarize the pertinent results and actions taken for each during the year of the Report; except that any such Resolution which, by vote of the selectmen, is deemed moot or inappropriate for further action need subsequently be listed, and so noted, only until and in the year of such vote.

or act on anything relative thereto.

The 1994 Town Meeting warrant article, the Resolution (then-Art. 20), "Shoveling Enforcement" (see the accompanying petitioned warrant article on that subject) is an example of some other instances where Town Meeting has, often in a spirit of good faith compromise, passed a Resolution -- often overwhelmingly -- only to be ignored later. Town Meeting resolutions have addressed many important issues, e.g.: in 1987 a Resolution on Racism and Civil Rights; one in 1998 condemning the genocide in East Timor; one in 1999 supporting Right of Employees to Unionize; another in 1999 supporting Universal Health Care; and one in 2000 criticizing the MCAS tests. Some have called for further action; others have not. Some have been honored in practice, but still seem deserving of occasional reminders; others have been implemented haltingly and only after later prodding; some have been ignored.

Since Town Meeting has no staff, and is totally dependent on Brookline's executive branch and state legislators to carry out (to the extent they see fit) its wishes, it is reasonable to merely ask for annual reports on the status and results of such Resolutions -- until they are deemed, in the discretion of the selectmen, either moot or inappropriate for further action. In the latter event, Town Meeting members would then be alerted and able, if they wish, to propose further measures -- either by warrant articles or by informal requests. In any event, the reporting requirement would necessitate a least an annual discussion by the selectmen about any outstanding Resolutions.

SELECTMEN'S RECOMMENDATION

The Board of Selectmen supports the publication in the Annual Report of the full text of any Resolution adopted by Town Meeting in the year covered by that Report. Further, the Board concurs with the requirement that an accompanying summary of Board actions, which the Resolution might have called to be performed, also be published.

However, the full Board does not agree with the provision in the petitioned article that every Town Meeting Resolution be listed in all future Annual Reports unless the Selectmen take a formal vote deeming the Resolution "moot or inappropriate" for further action. In addition, a minority of the Board has reservations about codifying any such ministerial requirements in the By-Laws.

The substitute language voted by the Selectmen states clearly and directly that the Selectmen are to report each year on Resolutions voted by Town Meeting. It accords the recognition and respect to Town Meeting action that is appropriately warranted. A resolution is a formal expression of non-binding "opinion" by a particular body, often directed at a specific issue in a finite period of time. From electoral term to term, which is yearly in Brookline, resolutions inherently lack the staying power of law, particularly as positions turn over in the corporate body politic. Times change, people change, and opinions change, contributing to the generally recognized political understanding that resolutions are not accorded perennial re-publication.

The article as proposed is considered unnecessary because:

- ?? Resolutions by Town Meeting, Selectmen, or other bodies do not warrant perpetual re-printing in subsequent Annual Reports. We have not been able to identify any other town whose Town Report contains this feature.
- ?? The Petitioner's motivation appears to derive from concern about the perceived lack of response to a Shoveling Enforcement Resolution adopted by Town Meeting in 1994. The Petitioner's companion Article 13 addresses this matter.
- ?? Of the other thirteen Resolutions adopted since 1990, virtually none have given rise to complaint about follow-up. For example, the petitioners of last year's MCAS Resolution were quite satisfied with the follow-up action taken by the Board. Concern had been expressed about one of the thirteen (Article 20 in 1998) and the substitute language addresses that type of situation.
- ?? The open-ended nature of the petitioner's language proposed in Article 14 presents numerous opportunities for debate that has historically and appropriately been avoided

through the traditional practice of handling resolutions. Many resolutions are directed at entities outside of Brookline and do not call upon the Boards or departments for specific actions. In the years following the adoption of any given resolution, the original petitioners, Town Meeting, or the Selectmen might all have differing opinions as to whether a resolution passed years previously is “moot or inappropriate”.

The Town can be quite proud of its Annual Report. The Brookline Annual Report has placed among the top three finishers in the statewide Town Report Contest in each of the past five years. The Annual Report is a reflective, and hopefully pleasing, summary of the highlights of Town government for the previous year. The full Board sincerely urges that the Annual Report and its preparation not be put in the position of being caught up in an any exercise that is unnecessarily complicated and potentially contentious.

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

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND

Article 14, which is proposed by Town Meeting Member Martin Rosenthal and other Brookline residents, is a Resolution that calls for an amendment to the Town's By-laws, adding a requirement to the Selectmen's section of the Town's Annual Report. The language of the proposed amendment says that this new part of the Annual Report would have two sections, the first being a reprinting of each Resolution that was adopted by Town Meeting that year. The second section would list all past adopted Resolutions (beginning in 2001 and from then on) which call for action by the Selectmen or Town departments, summarize all the Resolution's clauses and say what action was taken and what results were achieved that year. A Resolution would stop being reported on, when the Selectmen vote that its subject is either no longer an issue or that further action is not needed.

DISCUSSION

The petitioners say that there have been times when Resolutions, often overwhelmingly passed by Town Meeting, have later been ignored or their strong statements of support or condemnation on an issue seemingly forgotten in following years. In the latter case, they remind us of the 1987 Resolution on Racism and Civil Rights and last year's Resolution criticizing the MCAS test, among others. Not every Resolution calls for action. Do some of these, also deserve to be

republished in the Annual Report, or elsewhere, as reminders of the important statements and stands we've taken over the decades for us and those that follow?

They refer to 1994's Shoveling Enforcement article as a case of continued lack of follow-through on a local problem; one of public safety and civility discussed in the previous Article 13 of this year. That problem has had a long history of not "getting fixed," starting with a 1983 resolution calling for "civic responsibility," the original Snow Removal By-law in '87 and most recently one calling for Shoveling Enforcement in '94. This has surely been a difficult issue and problem to finally get right. The petitioners feel that this new resolution will add a needed layer of accountability and public notice of its progress.

The Committee is of course very supportive of even more accountability in our Town government and of the idea that a citizen should simply expect a by-law to work. For a by-law section to succeed in implementing change, or in correcting a problem for the public good, surely accountability is a necessary ingredient in the mix that includes guidelines, informing the public, warnings, fines and enforcement.

The Petitioner and some committee members pointed out that the Annual Report already publishes a summary of Resolutions approved by the past year's Annual Special Town Meetings. They maintain that adding the republishing of important human rights or global resolutions would serve as important reminders of a document's continued importance or relevancy. The Selectmen would be able to summarize the Resolutions and therefore determine the amount republished each year, which should only amount to a few pages. Some committee members simply felt that the republishing of past resolutions was unnecessary and inappropriate.

A majority of the Advisory Committee is in agreement with Selectmen's amended version of the article because it would call for increased follow up and accountability on resolutions passed by Town Meeting each year.

RECOMMENDATION

A slim majority of the Advisory Committee recommends FAVORABLE ACTION on the following vote.

VOTED: To amend the By-Laws of the Town of Brookline by adding to end of Section 4.2.9, SELECTMEN'S REPORT, the following:

"It shall also contain the full text of each Resolution which was adopted by Town Meeting during the year of the Report. Any Resolutions adopted during the year of the Report which call for action by the selectmen or Town Departments pursuant to this article shall be accompanied by a summary of pertinent actions taken by the selectmen or appropriate Town department."

ARTICLE 15FIFTEENTH ARTICLE

To see if the Town will amend Section 6.13, Design of All Off-Street Parking Facilities, subsection (d), Entrances and Exit Drives, of the Zoning Bylaw, by adding a subsection (6), which reads as follows:

- 6.) Designed to insure maximum pedestrian and vehicular safety and minimize potential conflicts between pedestrians and motor vehicles. To do so, the Planning Board and Board of Appeals, as a condition of a special permit, and with technical input from the Building Commissioner and Director of Engineering and Transportation, may require that one or more of the following safety enhancements be provided:
 - a. Adequate site distance so that exiting vehicles have a clear view of any pedestrian on the sidewalk within a minimum of five (5) feet to either side of the entrance or exit drive measured from six (6) feet behind the property line and along the centerline of the driveway;
 - b. Enhancements to the facility exit that will insure that all exiting vehicles will come to a complete stop before entering the sidewalk area, apron, or intersecting roadway.
 - c. Textured or marked ramps, drives, or driveway aprons (defined as that area where the sidewalk and exit drive are the same) as well as adjacent sidewalk area to provide a perceptible auditory and/or visual signal to pedestrians and exiting vehicles;
 - d. Modifications to required or proposed landscaping including but not limited to cut slopes, hedges, trees, bushes, or other streetscape improvements to insure that visibility is not impaired;
 - e. Modifications to the building setback where the exit to the parking facility is to be located to provide additional sight lines and visibility to exiting vehicles and pedestrians;

- f. Visual and or auditory warning devices designed to alert approaching pedestrians and motor vehicle traffic that a vehicle is exiting the facility;
- g. Other enhancements that provide the optimum level of pedestrian safety to insure adequate advance opportunity to detect an exiting vehicle from the parking facility. Such enhancements shall take into consideration potential physically challenging conditions that pedestrians may have including sight, auditory, or other physical disabilities
- h. Based on the particular siting or orientation of the building, or other special condition exhibited by the facility, other mitigation measures may also be required.

or act on anything relative thereto.

April 19, 2001

**PLANNING BOARD REPORT AND RECOMMENDATION ON
PROPOSED ZONING BY-LAW AMENDMENT**

**AMENDMENT TO ARTICLE 6 VEHICULAR SERVICE USES REQUIREMENTS,
SECTION 6.13 (D) ENTRANCE AND EXIT DRIVES**

In accordance with Chapter 40A of the General Laws of the Commonwealth of Massachusetts and, after due notice has been given, the Planning Board held a public hearing, jointly with the Planning and Regulation Subcommittee of the Brookline Advisory Committee, on April 19, 2001 in Town Hall on a proposed amendment to Article 6 Vehicular Service Uses Requirements, Section 6.13 (d) Entrance and exit drives, of the Town of Brookline's Zoning By-Law. The notice for the public hearing was published in the Brookline TAB on April 5 and 12, 2001. Copies of the notice were sent to all Town Meeting members, neighborhood associations, Town departments, Massachusetts Department of Housing and Community Development, Metropolitan Area Planning Commission, Planning Boards and agencies of Boston and Newton and other interests. The minutes of the public hearing and record of citizen attendance are on file with the Town of Brookline's Department of Planning and Community Development.

Existing Zoning By-Law

Article 6 Vehicular Service Uses Requirements of the Town's Zoning By-law currently establishes off-street parking, loading, access, circulation and related requirements. Section 6.13 Design of All Off-street Parking Facilities establishes design, dimensional and related standards for off-street parking facilities including surface lots and structures. Sub-section 6.13 (d) establishes standards for the location, width, grade and related design features of entrance and exit drives.

Proposed By-Law Amendment

The proposed amendment to Section 6.13 (d) of the Town's Zoning By-Law will introduce a new Sub-Section 6 as follows (Note: proposed text to be added as underlined):

Section 6.13 DESIGN OF ALL OFF-STREET PARKING FACILITIES

(d) Entrance and exit drives, except as permitted in paragraph (k), shall be:

- (6) Designed to insure maximum pedestrian and vehicular safety and minimize potential conflicts between pedestrians and motor vehicles. To do so, the Planning Board and Board of Appeals, as a condition of a special permit, and with technical input from the Building Commissioner and Director of Engineering and Transportation, may require that one or more of the following safety enhancements be provided:
 - a. Adequate sight distance so that exiting vehicles have a clear view of any pedestrian on the sidewalk within a minimum of five (5) feet to either side of the entrance or exit drive measured from six (6) feet behind the property line and along the centerline of the driveway;
 - b. Enhancements to the facility exit that will insure that all exiting vehicles will come to a complete stop before entering the sidewalk area, apron, or intersecting roadway;
 - c. Textured or marked ramps, drives, or driveway aprons (defined as that area where the sidewalk and the exit drive are the same), as well as the adjacent sidewalk area, to provide a perceptible auditory and/or visual signal to pedestrians and exiting vehicles;
 - d. Modifications to required or proposed landscaping including but not limited to cut slopes, hedges, trees, bushes, or other streetscape improvements to insure that visibility is not impaired;

- e. Modifications to the building setback where the exit to the parking facility is to be located to provide additional sight lines and visibility to exiting vehicles and pedestrians;
- f. Visual and/or auditory warning devices designed to alert approaching pedestrians and motor vehicle traffic that a vehicle is exiting the facility;
- g. Other enhancements that provide the optimum level of pedestrian safety to insure adequate advance opportunity to detect a vehicle exiting from the parking facility. Such enhancements shall take into consideration potential physically challenging conditions that pedestrians may have including sight, auditory, or other physical disabilities; and
- h. Based on the particular siting or orientation of the building, or other special condition exhibited by the facility, other mitigation measures may also be required.

Pedestrian and vehicular safety, particularly where access drives to and from off-street parking facilities intersect sidewalks and streets, must be a critical consideration of the Planning Board and Board of Appeals when reviewing development and improvement plans for consistency with the Town's Zoning By-Law. Section 6.13 (d) of the Town's Zoning By-Law establishes minimum standards for the width, slope and location of entrance and exit drives to and from parking facilities. Other than brief references to the facilitation of traffic flow and safety, the current Zoning By-law does not specifically describe a range of alternative design features to appropriately address alternative pedestrian and vehicular safety enhancements associated with entrance and exit drives.

Town Meeting considered an initial warrant article to address the issue of pedestrian safety at the intersection of sidewalks and entrance and exit drives in November 2000. However, it was determined that the proposed article was limited in scope and should be further studied and reintroduced. As a result of the No Action recommendation of Town Meeting, staff from the Departments of Public Works, Building and Planning and Community Development met to develop the above proposed amendment to the Town's Zoning By-Law.

The proposed amendment will not only address the initial and critical concern for pedestrian safety, that resulted from a tragic pedestrian fatality that occurred at 19 Winchester Street last year, but also the following important findings and objectives:

1. Recognize that individual parcels, parking facilities and entrance and exit drives, due to their size, location and proximity to various uses and activities, may present unique

- conditions that will require the consideration and implementation of one or more design features.
2. The introduction of safety enhancements at entrance and exit drives to and from parking facilities must recognize the different design needs presented by underground garages, surface parking structures and parking lots.
 3. Provisions for adequate sighting distances and clear sight lines for both pedestrians on public and private sidewalks and approaching vehicles entering or leaving parking facilities must be considered.
 4. The effective deployment of various types of alternative visual and audible devices and improvements must be considered on a site by site basis and should be complementary to the surrounding uses and neighborhood during both daytime and evening hours.
 5. The design, location and improvement of off-street parking facilities and associated entrance and exit drives must effectively consider the relationships between pavement width, length, slope and the frequency and type of vehicular and pedestrian interaction.
 6. Consideration must be given to either the elimination of potential visual obstructions resulting from landscaping and other site features and improvements or the provision of appropriate building setbacks that will maximize pedestrian and vehicular safety.

At the close of the April 19, 2001 public hearing on the proposed amendment to the Town's Zoning By-Law, the **Planning Board voted unanimously to recommend approval of the proposed amendment to Article 6 Vehicular Service Uses Requirements, Section 6.13 (d) Entrance and exit drives, by adding the new subsection (6) as defined above.**

Jerome I. Kampler, Chairman

Kenneth M. Goldstein, Clerk

Linda K. Hamlin

Mark J. Zarrillo

Steven A. Heikin

SELECTMEN'S RECOMMENDATION

In November 2000, Town Meeting considered Article 10 that would have amended Section 7.5.18 of the Town's By-Laws to require the installation and maintenance of visual warning devices to alert pedestrians of motor vehicles exiting an off-street parking facility. This article was filed as a result of a tragic pedestrian fatality that occurred on Winchester Street. Based on an initial analysis of the proposed article's potential application, it was recommended by the Board of Selectmen that Town Meeting take No Action until further study was completed to determine if the important objective of pedestrian safety at exit drives from parking facilities could be more completely addressed through other amendments to existing by-laws.

Since the November Town Meeting, the Board of Selectmen, working in conjunction with the Department of Public Works, Building Department, Town Counsel, and the Department of Planning and Community Development, proceeded on two fronts to address potential pedestrian and vehicular safety issues associated with existing parking facilities and future construction.

Through the efforts of the Building Commissioner, inspections have been initiated to identify and correct potential pedestrian and vehicular sighting deficiencies at existing parking facilities. Through this effort, notices have been issued and improvements are underway to improve pedestrian safety. These efforts will be on-going to insure that adequate pedestrian sight lines are provided and appropriate warning signs and audible and visual devices installed.

A thorough review of the Town's Zoning By-Law was also completed to evaluate and identify an amendment that would enable the Planning Board and Board of Appeals to effectively evaluate and recommend pedestrian safety and related improvements as part of the design of parking lots, underground parking garages, and other parking facilities and driveways. The Department of Planning and Community Development, in conjunction with the Engineering and Transportation Division of the Department of Public Works, defined a range of alternative pedestrian and vehicular safety enhancements for incorporation as part of a Zoning By-Law amendment.

Article 15, which will amend Section 6.13 Design of All Off-Street Parking Facilities of the Town's Zoning By-Law, introduces new requirements for the design of entrance and exit drives to insure pedestrian and vehicular safety. The proposed amendment will enable the Planning Board and Board of Appeals to recommend pedestrian and vehicular safety improvements for Special Permit applications subject to Community and Environmental Impact and Design Review. All development applications that would introduce off-street parking garages, structures, and lots serving more than six vehicles will be subject to the proposed new pedestrian safety requirements.

The Board of Selectmen find that the proposed warrant article will meet the following important objectives that have also been identified by the Planning Board:

1. The range of potential pedestrian and vehicular safety improvements enabled by the proposed amendment will address the unique characteristics and conditions presented by various sites, neighborhoods, and commercial areas.
2. The potential different pedestrian safety needs and issues associated with underground garages, parking structures, and parking lots can be addressed.
3. Future parking lots, facilities, buildings, and landscape elements will be designed in an integral manner to provide for adequate sighting distances and clear sight lines for vehicles and pedestrians.
4. Various types of effective audible and visual devices and improvements will be considered and deployed to both address pedestrian and vehicular safety and insure compatibility with surrounding residential or commercial areas during both daytime and evening hours.
5. The design and installation of pedestrian and vehicular safety improvements will be coordinated with other important site planning requirements stipulated by the Zoning By-Law.

Therefore, the Board of Selectmen unanimously recommend FAVORABLE ACTION on the following vote:

VOTED: That the Town will amend Section 6.13, Design of All Off-Street Parking Facilities, subsection (d), Entrances and Exit Drives, of the Zoning Bylaw, by adding a subsection (6), which reads as follows:

- 6.) Designed to insure maximum pedestrian and vehicular safety and minimize potential conflicts between pedestrians and motor vehicles. To do so, the Planning Board and Board of Appeals, as a condition of a special permit, and with technical input from the Building Commissioner and Director of Engineering and Transportation, may require that one or more of the following safety enhancements be provided:
 - a. Adequate site distance so that exiting vehicles have a clear view of any pedestrian on the sidewalk within a minimum of five (5) feet to either side

of the entrance or exit drive measured from six (6) feet behind the property line and along the centerline of the driveway;

- b. Enhancements to the facility exit that will insure that all exiting vehicles will come to a complete stop before entering the sidewalk area, apron, or intersecting roadway.
- c. Textured or marked ramps, drives, or driveway aprons (defined as that area where the sidewalk and exit drive are the same) as well as adjacent sidewalk area to provide a perceptible auditory and/or visual signal to pedestrians and exiting vehicles;
- d. Modifications to required or proposed landscaping including but not limited to cut slopes, hedges, trees, bushes, or other streetscape improvements to insure that visibility is not impaired;
- e. Modifications to the building setback where the exit to the parking facility is to be located to provide additional sight lines and visibility to exiting vehicles and pedestrians;
- f. Visual and or auditory warning devices designed to alert approaching pedestrians and motor vehicle traffic that a vehicle is exiting the facility;
- g. Other enhancements that provide the optimum level of pedestrian safety to insure adequate advance opportunity to detect an exiting vehicle from the parking facility. Such enhancements shall take into consideration potential physically challenging conditions that pedestrians may have including sight, auditory, or other physical disabilities
- h. Based on the particular siting or orientation of the building, or other special condition exhibited by the facility, other mitigation measures may also be required.

ADVISORY COMMITTEE'S RECOMMENDATION

Background

Article 15 was submitted to insure all possible measures to protect pedestrians when vehicles are exiting a parking area. Mr. Robert Duffy, Director of Planning and Community Development, introduced the reasons for the article, primarily as an outgrowth the to the Fall 2000 Brookline Town Meetings request for additional study for the provisions of public and vehicular safety.

Discussion

The provisions of Article 15, if passed by a 2/3 vote at Town Meeting, would allow the Town to impose one or more of a number of extra safety requirements for the benefit of pedestrians that would pass the building to any project which requires a special permit. The list of requirements is based on a review of the previous special permit cases processed by the Planning Board and Zoning Board of Appeals. The possible requirements include visual or auditory warning devices when a vehicle is exiting the building, specially marked exit areas, adequate sight lines for the exiting driver, etc.

Discussion included whether all building permits should require these provisions. The persuasive argument to include only special permit projects is based on the fact that many projects such as single or two family homes would be unduly encumbered if these provisions were more broadly applied.

Discussion of retaining “other mitigation measures” in sub-paragraph h of the proposed article led to the Planning Board’s desire to retain flexibility in implementing the regulation. It is noted that these requirements will be part of the public hearing process before the Planning Board and Zoning Board of Appeals.

Recommendation

The Advisory Committee unanimously recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 16

SIXTEENTH ARTICLE

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

AN ACT CHANGING THE PERCENTAGE OF TOTAL TAX LEVY IMPOSED ON ANY CLASS OF REAL AND PERSONAL PROPERTY IN THE TOWN OF BROOKLINE.

BE IT ENACTED, by the Senate and House of Representatives in the General Court Assembled and by the authority of the same, as follows:

Section 1. Notwithstanding any special or general law to the contrary, including, without limiting the foregoing, section 1A in Chapter 58 of the General Laws, in the town of Brookline, the limitation of one hundred and seventy-five percent of the full and fair cash valuation of the taxable property in said class set forth in part (a) in the fourth sentence in the second paragraph in Section 1A in Chapter 58 of the general laws, shall be changed to two hundred percent, so that in the town of Brookline the limitation shall be two hundred percent and not one hundred seventy-five percent.

Section 2. Section 1A in chapter 58 of the General Laws, as modified in Section 1., shall be effective in the town of Brookline.

Section 3. This act shall take effect upon its passage.;

or act on anything relative thereto.

Residential taxes have jumped by over 4 percent to as much as 7 percent in the current fiscal year at a time when commercial property taxes have actually been reduced. In fact, the shares of the total town tax burden, which for many years had held stable at roughly 81 percent residential and 19 percent commercial, have now shifted to about an 82-18 ratio, so that homeowners are shouldering just over percent more of the tax burden. The result is that homeowners are paying over a million dollars more in taxes than if the selectmen had been able to set tax rates to continue their long-standing policy of maintaining equal annual tax increases for

both the residential and the commercial sectors. And the situation may become even worse in future years if nothing is done.

The selectmen were unable to achieve tax parity because of a restriction in the state tax classification law limiting their flexibility to adjust for inflation in the residential real estate market by suitably shifting taxes to the commercial sector over and above the commercial share of the town's assessed values. The purpose of this home rule petition is to relax the restriction on tax shifting so that the selectmen can once again maintain tax stability for homeowners when residential assessed values climb faster than commercial values.

Current state law is designed to help communities maintain tax stability by setting higher tax rates for commercial property than for residential, but it also caps the commercial share of taxes to 175 percent of what it would be if it were calculated solely on the commercial share of assessed values. When the classification law was first enacted twenty years ago this cap was set at 150 percent but in 1988, the legislature had to increase the cap to 175 percent in response to the inflation in residential property values of the late eighties. The run-up in residential values we are now experiencing requires the cap to be further increased if tax parity is to be preserved. This home rule petition asks that the cap be set at 200 percent for Brookline, while keeping in place the various protections against over-taxing businesses that are present in the current classification law.

SELECTMEN'S RECOMMENDATION

Article 16 is a petitioned article requesting Home Rule legislation to allow the Town to increase the maximum allowable shift of the tax burden from the residential classification to the commercial, industrial, personal property (CIP) classification from the current ceiling of 175% of assessed value to 200% of assessed value. The basic effect of the article would be to allow the Town to further increase the tax burden on the CIP.

The Selectmen oppose this article on two grounds: (1) it would set Brookline apart from all other cities and towns in Massachusetts as the LEAST business-friendly; and (2) it threatens the small business base which we have been working hard to preserve.

HISTORY OF THE PROPERTY TAX

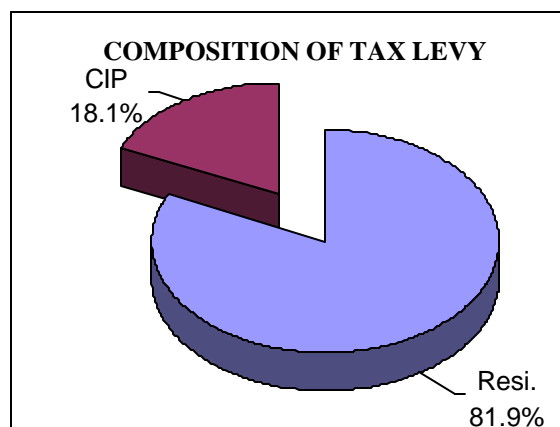
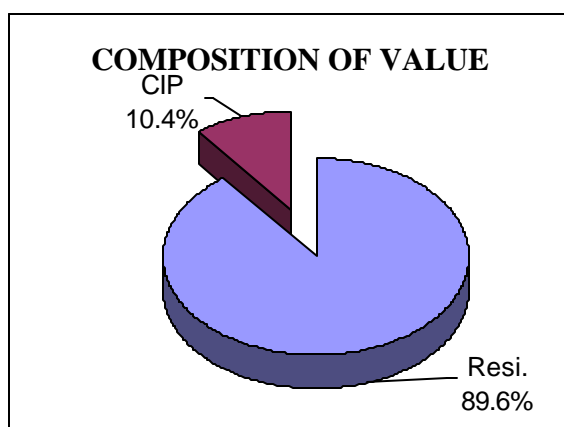
Because the issue of fairness in tax assessment is fundamental within our state constitution, state government regulates the way cities and towns can impose property taxes. On the one hand, state law mandates that all properties be assessed at "full and fair cash value", regardless of the type of

use. On the other hand, largely as a result of a struggle that emerged between big businesses (i.e., utilities, insurance companies, and banks) and local governments, the Classification Act of 1979 allowed communities to establish different tax rates for commercial, industrial, and personal than for residential property, within certain limits.

The Classification Act established two limits on the ability of cities and town to shift the property tax burden. First, the CIP levy share may only be increased as much as 75% over what it would otherwise be with a single tax rate. Second, the residential tax share may be no less than 50% of the single tax rate levy share, nor can it be less than the levy share in any year since the community was first classified. This is how we get to the current maximum allowable shift of 175%. This home rule petition would allow Brookline alone to raise this maximum shift to 200%.

CURRENT SHIFT IN BROOKLINE

If everyone paid property taxes at the same rate, the business sector in Brookline would pay 10.4%, or \$10.4 million, consistent with their share of value. Instead, the CIP sector paid \$18.6 million—a shift of \$7.76 million last year. This is because in FY01 we imposed the maximum allowable shift of 174.49%, meaning that the CIP sector pays an additional 74.49% in property tax than it otherwise would under a single tax rate.



Another way to look at this is valuation share versus the tax levy share, shown in the pie charts below.

In FY01, residential properties comprise 89.6% of valuation, yet pay 81.9% of the tax levy. Conversely, the CIP sector comprises 10.4% of the value, but pays 18.1% in actual tax levy.

FINANCIAL IMPACT OF ARTICLE 16

Using FY01 data, if the Town was allowed the maximum shift included in Article 16, the CIP shift would be 185.617%. (The ceiling of 200% could not be attained in the early years due to the requirements set forth in the Classification Act that the residential levy share cannot be reduced below 50% of its single tax rate share and the residential tax levy share cannot be less than the levy share in any year since the community was first certified.) The effect of this additional shift is shown in the table below:

TABLE 1

	Median Values	Tax Rates		Taxes		Change		
	2001	2001 Actual	2001 Proposed	2001 Actual	2001 Proposed	FY 2000 to FY 2001 Actual	FY 2000 to FY 2001 Proposed	Cost of Article 16
Residential Exemption	96,110	\$1,293.64	\$1,275.38					
Single Family	602,000	\$13.46	\$13.27	\$6,809	\$6,713	\$287	\$191	(\$96)
Two Family	548,650	\$13.46	\$13.27	\$6,091	\$6,005	\$338	\$252	(\$86)
Three Family	577,400	\$13.46	\$13.27	\$6,478	\$6,387	\$430	\$338	(\$91)
Condominiums	231,300	\$13.46	\$13.27	\$1,820	\$1,794	\$110	\$85	(\$26)
Apartments	660,000	\$13.46	\$13.27	\$7,590	\$7,483	(\$74)	(\$181)	(\$107)
Commercial Property	660,000	\$22.12	\$23.53	\$14,599	\$15,530	(\$113)	\$818	\$931

The far right column of the chart contains the key figures: for a savings of between \$26-\$107 for residential properties, commercial properties will pay an additional \$931. In percentage terms, commercial properties would pay an additional 6.4% so that residential properties would save 1.4%. When added to the current burden shifted onto the CIP sector, the median commercial property would be paying \$7,161 (85.6%) more than they would if there was a single tax rate.

SCENARIO 2 - CIP Tax Increase Equal to the Tax Levy Increase **CIP Shift = 183.622%**

	Median Values	Tax Rates		Taxes		Change		
	2001	2001 Actual	2001 Proposed	2001 Actual	2001 Proposed	FY 2000 to FY 2001 Actual	FY 2000 to FY 2001 Proposed	Cost of Article 16
Residential Exemption	96,110	\$1,293.64	\$1,278.26					
Single Family	602,000	\$13.46	\$13.30	\$6,809	\$6,728	\$287	\$206	(\$81)
Two Family	548,650	\$13.46	\$13.30	\$6,091	\$6,019	\$338	\$265	(\$72)
Three Family	577,400	\$13.46	\$13.30	\$6,478	\$6,401	\$430	\$353	(\$77)
Condominiums	231,300	\$13.46	\$13.30	\$1,820	\$1,798	\$110	\$89	(\$22)
Apartments	660,000	\$13.46	\$13.30	\$7,590	\$7,500	(\$74)	(\$164)	(\$90)
Commercial Property	660,000	\$22.12	\$23.27	\$14,599	\$15,358	(\$113)	\$646	\$759

Even under the two scenarios shown below (scenarios put forth by the petitioner), the result is a savings of between 1.2% (scenario 2) and 1% (scenario 3) for the residential properties at the expense of an increase in the commercial properties of between 5.2% (scenario 2) and 4.2% (scenario 3).

SCENARIO 3 - CIP Tax Increase Equal to Single Family Tax Increase

CIP Shift = 181.818%

	2001	2001 Actual	2001 Proposed	2001 Actual	2001 Proposed	Change		Cost of Article 16
						FY 2000 to FY 2001 Actual	FY 2000 to FY 2001 Proposed	
Residential Exemption	96,110	\$1,293.64	\$1,281.15					
Single Family	602,000	\$13.46	\$13.33	\$6,809	\$6,744	\$287	\$221	(\$66)
Two Family	548,650	\$13.46	\$13.33	\$6,091	\$6,032	\$338	\$279	(\$59)
Three Family	577,400	\$13.46	\$13.33	\$6,478	\$6,416	\$430	\$367	(\$63)
Condominiums	231,300	\$13.46	\$13.33	\$1,820	\$1,802	\$110	\$93	(\$18)
Apartments	660,000	\$13.46	\$13.33	\$7,590	\$7,517	(\$74)	(\$147)	(\$73)
Commercial Property	660,000	\$22.12	\$23.04	\$14,599	\$15,206	(\$113)	\$494	\$607

16-5

The petitioner has referenced the tax impact as affecting affordable housing. A brief look at the impact on condominiums—obviously, the most affordable entry-level housing in Brookline—contradicts this claim. A typical condo owner would save between \$18-\$22 per year according to the petitioner’s calculations. It seems clear that saving a condo owner \$1.50/month, while increasing a small business owner’s taxes by as much as \$759/year is disproportionate and not related to affordability considerations.

It is also important to note who pays the taxes. In the residential sector, property owners pay the taxes directly—meaning the beneficiary of the increased value of the property pays the tax. As much as we all wince at paying our property tax bills, we all know that those high assessed values will benefit us or our children upon resale. In the commercial sector, the business owners are rarely the property owners, and leases provide that property tax increases are directly and fully passed through to the business owners. These businesses do not benefit from the property value increases, but must pay the higher taxes related to those increases.

The petitioner’s write-up states that the reason for the article is to “continue their (the Selectmen’s) long-standing policy of maintaining equal annual tax increases for both the residential and commercial sectors.” While this implies theoretical fairness, two key pieces of real life intervene:

1. the number of CIP parcels in Town has decreased by close to 4% since FY95 while the number of residential parcels has increased by a similar amount;
2. the assessed value of residential properties has increased 85% over the same time period while the assessed value of all CIP properties has increased only 52%.

STATEWIDE COMPARISON

Currently, 100 of the 351 municipalities in the state use tax classification to transfer some portion of the tax burden onto the CIP sector. Of the 100, only nine are at the 175% limit, and Brookline is right below them at 174.5%. In FY00, the most recent statewide data that is available,

Brookline shifted \$7.9 million of actual taxes paid (i.e., tax levy) onto the CIP, translating into \$15,790 on a per parcel basis. This is the eighth highest figure in the state.

Another way to compare Brookline to statewide data is to take the difference between what the average CIP tax bill would be with a single tax rate on a per parcel basis (\$21,259 for Brookline) and what the actual per parcel tax bill was (\$37,049 for Brookline). The result for the Town is \$15,790, the eighth highest figure in the state. When looked at on a percentage basis, the Town's average per parcel CIP tax bill is 74% higher than it would be if there was a single tax rate - - a percentage that is higher than Boston (58%), Cambridge (69%), and Newton (72%).

By definition, if successful with the Home Rule petition, Brookline would be the only community in the state with a shift greater than 175%. Under any of the three scenarios discussed above, **Brookline would have the greatest shift in the state**. This will send a very negative message to businesses – existing and prospective companies – that Brookline does not value its business community. (The issue of “message” is elaborated upon later in this Report.)

It is also important to note that this is a virtual certainty that the State Legislature would not approve Article 16. The State has historically been loathe to cede community-specific taxing authority to any city or town.

CHARACTER OF AND IMPACT ON BROOKLINE'S COMMERCIAL AREAS

A viable, vibrant business community is essential to maintaining the character of Brookline. Approximately 75% of the Town's businesses are small businesses; in the retail sector, approximately 60% are unique “mom and pop” shops (compared to a national average of 30%). Since the majority of businesses are small, locally owned entities, it is logical that the majority of the impact of this article would fall on the Town's small business sector. These small businesses typically operate with much smaller profit margins than national chains do, so a tax increase like the one proposed in Article 16 will differentially impact the small businesses. Small as it seems, it could put some of these businesses over the edge. If this occurs even to a small extent the Town could lose further ground in the delicate balance between large and small retailers we have been struggling to maintain.

Some have argued that this increased tax burden is still relatively minor compared to other operating costs. While this may be true, taxes are the one cost item the Town can control. Furthermore, a large number of small business owners came to the EDAB and the Selectmen to tell us this impact could be significant to them. One said that even before this additional tax burden, a small retailer closed its doors as a direct result of last year's tax increase. These are the very businesses that are the heart and soul of our community—and the very ones to whom we turn to support our little league teams, school auctions, music and art scholarship programs, and the like. We cannot afford to ignore them and be proven wrong later, when it is too late.

A pass-through of \$931 to a Sprint, CVS, or Starbucks may be no big deal; however, \$931 for a Children's Book Shop, Aborn Hardware, Pear Tree, or any small mom and pop, it may make them think twice about renewing their lease. The increase may also make some people interested in opening a small business in Brookline look elsewhere - - such as Wellesley, where there is no tax shift onto the CIP sector.

Furthermore, the businesses most able to absorb a tax increase are logically the ones whose sales per square foot ratio are the highest. Unfortunately, these are not necessarily the types of businesses citizens want in Brookline. For example, the highest growth in sales per square foot in town are for pharmacies, yet very few citizens clamor for more CVS' and Walgreens'. This increased tax shift would encourage more of these uses and less of the ones we hear are most desirable.

In addition to paying a disproportionate share of taxes, the Town's businesses regularly give generously to the community, the value of which is estimated at no less than \$500,000 per year. Article 16 could jeopardize the ability of businesses to be such generous members of the community, leaving those groups looking for private donations unable to reach their funding goals.

Finally, the Town already has a very limited ability to impact the choices of new businesses coming into the Town. We have long maintained that a healthy mix between national, regional, and local retailers is the key to success. This warrant article makes it even harder for us to attract the type of businesses residents repeatedly tell us they want.

MESSAGE

"We want to tax you at a level that is the highest in the state" - - this is the message that businesses will hear. Such a message would make it appear as though the Town does not support its commercial areas. That flies directly in the face of this Board's support of the business community, in general, and small businesses, in particular. This article would send a strong message throughout the state that Brookline is not business-friendly and does not want to cultivate its commercial areas. This is clearly a step in the wrong direction.

Not only is it the wrong message to send, it is also the wrong time to send it. After years of predicting that the economy could not grow at such a feverous pace forever, it has begun to slow down. With it has come a number of layoffs and a number of store closings around the country. In this precarious time, a further shifting of tax burden onto the Town's businesses does not make any sense.

CONCLUSION

The bullets below summarize the numerous point made above:

- ?? if Article 16 is passed, Brookline would have the greatest percentage shift to the CIP sector in the state.
 - on a per parcel basis, Brookline already has the eighth highest shift in the state, higher than Boston, Cambridge, and Newton.
 - the Town currently shifts an additional 74.49% of the tax levy onto the CIP sector and the median valued commercial property already pays an additional \$6,230/year than it would if the Town had a single tax rate.

- ?? approximately 75% of the Town’s commercial composition is small business; approximately 60% of the retail sector stores are unique mom and pop shops, a figure much greater than the national average of 30%.
 - nearly all commercial leases in Brookline provide for a direct and full pass-through on tax increases. Therefore, an increase in taxes like Article 16 would be paid by the business owners.
 - These small businesses tell us they are unable to absorb this increase. We can’t afford to ignore these voices.
 - the financial impact of the article – a \$931 increase for the median valued commercial property – could make the difference for some small mom and pop shops.
 - a strong anti-business message would be sent if this article is passed, further reducing our ability to influence the composition of our commercial areas.
 - this Board has made a commercial area support a top priority. Imposing a burden like Article 16 on the Town’s businesses not only flies in the face of our efforts, but it also goes against what residents desire: a commercial area composition that is unique and charming.

For these reasons, the Board unanimously recommends NO ACTION on this article.

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND

This Article will approve the filing of a home rule petition with the state legislature which, if

passed, will raise the tax classification limit from 175% to 200%. The tax classification limit governs how much higher the tax rate can be for commercial property than residential property. It is one of a number of limits which are in place to protect the various classifications of taxpayers. Each of these limits must work together when the tax rate is set.

DISCUSSION

This Article is a matter of the purse and affects how much each of us pays in real estate taxes. The setting of the tax rate is governed by state law which in addition to the limitations imposed by Proposition 2 ½ with regard to aggregate tax collections also regulates how the tax rate can be split between commercial and residential property. (Due to Prop 2 ½, this Article will not affect the total amount of taxes collected by the town, only who pays the taxes. This is a “zero sum game.”) In addition to the 175% classification limit, a historical maximum of 19.2917% of the total tax burden can be borne by the Commercial, Industrial and Personal Property (CIP) classifications.

Brookline has had a split tax rate which shifts taxes towards commercial property. In recent years it has yielded a split of approximately 81% residential and 19% commercial in aggregate. Commercial and residential taxes have also increased at about the same rate over the years.

Full revaluations are conducted every three years. In the intervening years, the assessed values are adjusted for conditions in the market place using a statistical sampling process called “factoring.” This is done to avoid the jump in assessed values at revaluation time that we saw in the late 1980’s which caused so much public reaction and concern.

How much *additional* tax any particular property is going to pay in the next year is a factor of:

1. how much additional taxes the town is collecting in aggregate (governed by Prop 2 ½);
2. how the assessed value of the property’s class changed in relation to other classes, and;
3. how the assessed value of the property changed in relation to properties in the same property class.

In FY 2001, the assessed values of the various classes of property rose on average as follows:

Single Family	15.1%
Two Families	16.4%
Three Families	17.5%
Condominiums	16.5%
Apartments	10.0%
Commercial Property	10.0%

Since residential property assessed values rose much faster than commercial property, in order to maintain the historic balance between residential and commercial property and to have the actual taxes increase by the same amount between classes, the selectmen needed to increase the spread between the tax rates for the classes. In doing so, they ran into the 175% limitation. As a result, for the first time in anyone's memory who was in attendance at the hearing, commercial real estate taxes went down while residential went up. Another consequence was that a portion of the total town tax burden was shifted from CIP properties to residential. The total burden shift was about \$1.13 million.

The charts below show some differing scenarios to provide perspective on the impact of the Article:

1. The current situation for the median property in different tax classifications.

	C-I-P Tax Shift	174.4935%	Res Tax Rate	13.46	
	C-I-P Tax Rate	22.12	Res Exemption	\$96,110	
	FY01 Median Assessed Values	Current FY01 Tax	FY00 Tax *	<i>Change fr. FY00 Tax</i>	
Single Family**	\$602,000	\$6,809	\$6,522	\$287	4.40%
Two Family**	\$548,650	\$6,091	\$5,753	\$338	5.88%
Three Family**	\$577,400	\$6,478	\$6,049	\$429	7.09%
Condominium**	\$231,300	\$1,820	\$1,709	\$111	6.50%
Apartments**	\$660,000	\$7,590	\$7,664	-\$74	-0.97%
Commercial	\$660,000	\$14,599	\$14,712	-\$113	-0.77%

* FY00 taxes calculated on respective FY00 median assessed values.

** Residential Exemption applied in calculation

2. The maximum CIP shift had the 200% limitation been permitted for FY 2001

	C-I-P Tax Shift	185.617%	Res Tax Rate	13.27		
	C-I-P Tax Rate	23.53	Res Exemption	\$96,110		
FY01 Median Assessed Values		FY01 Tax with Max CIP Shift	FY00 Tax *	<i>Change fr. FY00 Tax</i>	<i>Change fr. current FY 2001 Tax</i>	
Single Family**	\$602,000	\$6,713	\$6,522	\$191	2.92%	-\$96
Two Family**	\$548,650	\$6,005	\$5,753	\$252	4.38%	-\$86
Three Family**	\$577,400	\$6,387	\$6,049	\$338	5.58%	-\$91
Condominium**	\$231,300	\$1,794	\$1,709	\$85	4.97%	-\$26
Apartments**	\$660,000	\$7,483	\$7,664	-\$181	-2.36%	-\$107
Commercial	\$660,000	\$15,530	\$14,712	\$818	5.56%	\$931

* FY00 taxes calculated on respective FY00 median assessed values.

** Residential Exemption applied in calculation

3. Commercial property taxes rising at about the same rate as single family homes. This scenario would be permitted under the Article at the discretion of the Selectmen.

	C-I-P Tax Shift	181.8182%	Res Tax Rate	13.33		
	C-I-P Tax Rate	23.04	Res Exemption	\$96,110		
FY01 Median Assessed Values		Alt FY01 Tax	FY00 Tax *	<i>Change fr. FY00 Tax</i>	<i>Change fr. current FY 2001 Tax</i>	
Single Family**	\$602,000	\$6,744	\$6,522	\$222	3.40%	-\$66
Two Family**	\$548,650	\$6,032	\$5,753	\$279	4.85%	-\$59
Three Family**	\$577,400	\$6,416	\$6,049	\$367	6.07%	-\$63
Condominium**	\$231,300	\$1,802	\$1,709	\$93	5.44%	-\$18
Apartments**	\$660,000	\$7,517	\$7,664	-\$147	-1.92%	-\$73
Commercial	\$660,000	\$15,206	\$14,712	\$494	3.36%	\$607

* FY00 taxes calculated on FY00 median assessed values.

** Residential Exemption applied in calculation

4. Commercial properties rising at about the same rate as the aggregate tax levy (before growth, after debt exclusion.) This scenario would be permitted under the Article at the discretion of the Selectmen.

	C-I-P Tax Shift		Res Tax Rate	13.30		
		183.6222%				
	C-I-P Tax Rate	23.27	Res Exemption	\$96,110		
		Alt FY01 Tax	FY00 Tax *	<i>Change fr. FY00 Tax</i>		<i>Change fr. current FY 2001 Tax</i>
FY01 Median Assessed Values						
Single Family**	\$602,000	\$6,728	\$6,522	\$206	3.40%	-\$81
Two Family**	\$548,650	\$6,019	\$5,753	\$265	4.85%	-\$72
Three Family**	\$577,400	\$6,401	\$6,049	\$353	6.07%	-\$77
Condominium**	\$231,300	\$1,798	\$1,709	\$89	5.44%	-\$22
Apartments**	\$660,000	\$7,500	\$7,664	-\$164	-1.92%	-\$90
Commercial	\$660,000	\$15,358	\$14,712	\$646	3.36%	\$759
* FY00 taxes calculated on FY00 median assessed values. ** Residential Exemption applied in calculation						

It was stated at the hearing that commercial tax increases tend to be passed on to the tenant. Two typical lease arrangements are (1) a “triple net” lease and (2) a lease with a tax escalator. The triple net lease contains a relatively low rent payment but the tenant pays for all building costs including taxes. A lease with a rent escalator assumes a certain tax level and if the actual taxes exceeds the assumed level, the difference is passed on to the tenant. (Under the rent escalator arrangement, if taxes go down during the term of the lease, the reduction will typically not be passed on to the tenant.)

How does the commercial tax rate in Brookline compare to other communities?

The following chart compares Brookline’s commercial tax rate to some of our neighbors:

Community	Commercial Tax Rate FY 2001	Notes
Brookline	22.12	
Boston	30.17	
Cambridge	23.39	
Newton	21.93	
Wellesley	8.85	Does not use a split tax rate. All classifications taxed at the same rate.
Concord	12.54	Does not use a split tax rate. All classifications taxed at the same rate.
Lexington	21.93	

Other comparisons compiled by the Assistant Town Administrator:

1. 100 cities and towns in Mass. have a split tax rate. Nine communities use the maximum 175% limitation. After those communities, Brookline at 174%, has the next highest CIP percentage shift.
2. If there was a single rate, the average CIP property would pay \$21,259, the 18th highest figure in the state. The average CIP property actually pays \$37,049, the 13th highest in the state. (These numbers differ from the scenario charts above because they are based on *averages* while the prior charts are based on *medians*. The Assessor stated that his office favors using medians in analysis since a median is less affected by large outliers.)

Different valuation methods are used for commercial and residential properties. Residential properties are valued using sales data to determine a statistical approximation of the Fair Market Value (FMV) of the property. For commercial properties, a capitalization of income approach is used which is dependent on the earnings potential of the property and the capitalization rate used in the calculation. The sales approach to valuation cannot be used for commercial properties in Brookline since, generally, commercial properties have other factors affecting the sale price which cannot be used for municipal valuations. Given this, sale prices of commercial property may be materially different from their assessed valuation.

The sales or market approach yields more volatility in residential valuations than commercial since the residential real estate market has been more volatile than interest rates in recent years. The volatility works in both the upward direction in times of quickly rising values and in the downward direction if values were to decline.

Lastly, should town meeting vote in favor of the Article and the state legislature pass the home rule petition (and the Governor signs it), Brookline will be the only community in the Commonwealth with a tax limitation greater than 175%.

Arguments in Favor of the Article.

The proponents of the Article have made the following arguments:

This Article is a matter of fairness and maintaining the status quo. Commercial and residential properties have been going up by roughly the same percentage every year. According to the Assessor, in the last 10-12 years, the percentage of increase between the classes has not fluctuated by more than 0.5% in any one year until this year. This longstanding practice has yielded a predictable tax pattern for all classes of real estate. Everyone knows that taxes will be going up and budgets accordingly. In FY 2001, due to the differing rates of increase in the valuations of the different classes, the Selectmen were unable to maintain their longstanding practice since the 175% limitation was reached. As

a result while taxes on residential properties went up over 5% in FY 2001, commercial properties actually went down by about 0.75%. Homeowners are being asked to pick up a portion of the tax burden formally carried by commercial properties.

This phenomenon also represents an unintended change of tax practice. The current practice has generally been perceived as fair as evidenced by the lack of attendance (and apparent lack of interest) over the years at the Selectman's tax rate setting public hearing.

While rents have doubled in Coolidge Corner over the past five years, real estate taxes have not gone up anywhere near that percentage. Rising rents are a much greater factor in reducing the base of small businesses than the predictable rise in real estate taxes. Rents reflect the true commercial pressures upon the small stores and that defeating this proposal will have a minimal effect upon the small stores. A point was made that not everyone should be taxed in the same manner since the assessments are done differently.

The bottom line is that taxes go up in predictable increments every year as governed by Prop 2 ½. Everyone must pay their fair share.

Arguments in Opposition to the Article

The opponents of the Article have made the following arguments:

This Article invites a careful review of the town's taxing philosophy. Currently, Brookline has among the highest average commercial tax bill in the commonwealth. This Article seeks authority to raise the bill higher. We should be very careful in adjusting our tax policies towards businesses since some local merchants are living "week to week."

The Article will renew the "anti-business" perception that is already associated with Brookline and thus the Article is symbolic. The Brookline Economic Development Advisory Board (EDAB) along with the Town's economic development office have been making progress in dispelling this notion and the Article would hinder their efforts.

Small businesses are losing business due to lack of parking and other causes. If we increase the cost of doing business in Brookline, the remaining small businesses will be gone. Not all shops in Brookline should be part of a large chain.

A number of opponents were concerned that Brookline would be the only community with a 200% tax limitation. Some expressed a preference for general legislation so that all communities would be playing under the same set of rules in this area.

Commercial activity is part of any balanced and successful town. Business activity in Brookline has a distinct character. We do not see in Brookline certain commercial

activities we see in other communities such as strip malls. The Selectmen have commented about the “streetscape” in the past as an attribute to be valued. It might not be easy to predict if this Article would encourage greater participation by local people to establish more business in Brookline; or will it simply encourage “large capitalized” national chains with predictable results.

In short while this Article is a quick fix for rebalancing the recent housing market appreciation, it may cost the Town in goodwill, character and fiscal support in the longer term.

The EDAB opposes the Article and believes that (1) it is based on reasoning that is incorrect; (2) it unwisely presents a challenge to Brookline’s business community, and (3) it imperils the health of the kind of small businesses that we often say we want in Brookline.

RECOMMENDATION

The Advisory Committee, by a substantial majority, recommends a vote of NO ACTION on this Article. In addition to the arguments against the Article presented above, the Advisory Committee is very much concerned about the message this sends to prospective businesses about the business climate in Brookline. The Advisory Committee is also concerned that the Article can work counter to the efforts of the EDAB and the Town’s economic development office to attract new, especially small businesses to the Town.

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ARTICLE 17

SEVENTEENTH ARTICLE

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

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE TOWN-OWNED PROPERTY FOR TWENTY-FIVE YEARS,

BE IT ENACTED, etc. as follows:

SECTION 1. The Town of Brookline is hereby authorized to lease town-owned property for a period not to exceed twenty-five years, upon such terms and conditions as the Board of Selectmen shall determine, provided, that the terms and conditions of the lease, the annual rental to be paid and the length of the lease shall be approved by a town meeting of said town.

SECTION 2. This act shall take effect upon its passage,

or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

This article would authorize the Town to file a Home Rule petition with the General Court that would allow the community to enter into contractual agreement with tenants of Town owned property for a term not to exceed 25 years.

Current state law prohibits any leases of town-owned property to be longer than 10 years unless approved by the State. This article would change the 10-year term that triggers State approval to 25 years, meaning the Town would not need State approval of any leases that are 25 years or less in length.

There are some unique properties owned by the Town that would be better served if the rental agreement were extended beyond the current 10-year limit. In situations where the tenant's financial obligation to the community is to provide some form of rent that would be applied toward the maintenance of the premises, a longer term would allow the tenant the opportunity to gain loan support from a financial institution.

It is very important to note that this article does not change the role of Town Meeting: Town Meeting must currently approve leases of town-owned property and it will continue to approve leases of town-owned land. In essence, this article gives the town flexibility to accommodate a longer leasing period for existing or prospective non-profit tenants. This will assist the tenants in their efforts to secure financial support for their endeavors.

The Board of Selectmen unanimously recommends FAVORABLE ACTION on the following vote.

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

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE TOWN-OWNED PROPERTY FOR TWENTY-FIVE YEARS,

BE IT ENACTED, etc., as follows:

SECTION 1. The Town of Brookline is hereby authorized to lease town-owned property for a period not to exceed twenty-five years, upon such terms and conditions as the Board of Selectmen shall determine, provided, that the terms and conditions of the lease, the annual rental to be paid and the length of the lease shall be approved by a town meeting of said town.

SECTION 2. This act shall take effect upon its passage,

ADVISORY COMMITTEE'S RECOMMENDATION

Background: Article 17 is a petition with the General Court to enable the above-mentioned change in the procedure for the leasing of town-owned property. Currently it is necessary for the Town to petition the General Court for each lease the Selectmen want to enter into. This article allows the Town to lease its land for a period not to exceed 25 years without going to the General Court. Under provisions of this article, the Selectmen have the authority to establish the conditions of the lease, which would be entered into upon the approval of Town Meeting.

Discussion: Short leases of town owned property create extra work for the Town with little in return. For example, the Transportation Museum at Larz Anderson Park wants to extend its lease of 10 years, and it is necessary to go to the General Court for this extension. Moreover, Chapter 30B requires an RFP and bid process for each lease of its buildings. In some cases, a short lease will even prevent the lessee from obtaining funding for long term capital improvements. The

proposed article would permit leases for longer periods, obviating frequent bidding processes and frequent petitions of the General Court and encourage capital improvements by lessees of Town owned property. Both the Selectmen and Town Meeting shape and approve the lease under the conditions of the proposed article, permitting a thorough public review of each and every long-term lease of town owned property.

Recommendation: The Advisory Committee unanimously recommends FAVORABLE ACTION on the vote offered by the Selectmen.

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ARTICLE 18

EIGHTEENTH ARTICLE

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

AN ACT AMENDING CHAPTER 66 OF THE ACTS OF 1998 THAT ESTABLISHED A LIABILITY INSURANCE FUND IN THE TOWN OF BROOKLINE

Be It Enacted, etc., as follows:

Section 1. Section 2 in Chapter 66 of the Acts of 1998 is amended to read as follows:

SECTION 2. No direct drafts against the town of Brookline Liability Insurance Fund (the fund) shall be made, but, insurance premiums, property damage losses, personal injury or other claims, litigation costs, judgments and settlements, recommended for payment by town counsel and approved by a majority of the board of selectmen, may be paid from the fund by vote of the advisory committee and a concurring vote of the board of selectmen. Losses, claims, costs, judgments and settlements, if not recommended by town counsel, may be appropriated by a two-thirds vote at any town meeting. The fund may be discontinued by a two-thirds vote of an annual or special town meeting. If discontinued, any balance remaining in the fund shall be transferred to the town's unreserved fund balance.

Section 2. This act shall take effect upon its passage.

or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

This article would authorize the Town to file a Home Rule petition with the General Court that would improve the community's flexibility in resolving legal suits with outside claimants.

Chapter 258, Section 5 of the Massachusetts General Laws and Section 3.1.3 of Town By-Laws empower the executive, in this case the Board of Selectmen, to enter into agreements for the settlement of tort claims. The Board always seeks recommendation from Town Counsel in considering the settlement of a claim. In some situations, outside counsel is also retained and likewise provides advice on the settlement of claims.

In 1997, Town Meeting authorized the Town to file a Home Rule petition with the General Court to create a Catastrophe and Liability Reserve Fund, the purpose of which is to allow the Town to set aside reserves, pay settlements and judgments, and protect the community from the negative financial impact of catastrophic loss or legal claims. The General Court approved the petition as Chapter 66 of the Acts of 1998 on April 3, 1998. In the last few years, Town Meeting has endorsed this Catastrophe and Liability Reserve concept further with the appropriation of more than \$1.1 million to this account (including the funds in the FY2002 Financial Plan).

The law creating this Fund established a protocol by which proceeds could be used to settle legal claims by a majority vote of Town Meeting. In the three years that the Fund has existed, circumstances, fortunately, have not required its utilization.

Town Counsel makes every effort to protect the community from the financial impact of legal settlements. Included in the Town Counsel's operating budget is a line-item for small claim settlements, expenditures that are usually in the \$500 to \$10,000 range. Mid-size settlements, up to approximately \$75,000, have been paid from the Town's Appropriated Reserve Fund. The inducement of speed in payment encourages settlements. Execution of settlements in a timely fashion dictates that the Town expends funds from the Appropriated Reserve Fund, a process that requires a vote of the Board of Selectmen and Advisory Committee. An appropriation from the Catastrophe and Liability Fund would require additional time to schedule and hold a Town Meeting or Special Town Meeting.

There is currently no available motivation to encourage a plaintiff to settle a case that requires sums greater than \$75,000. Drawing large sums from the Appropriated Reserve Fund would reduce funds that are made available for emergency and unforeseen situations, which are usually weather related. In the end, cases of a more serious nature are resolved in the courts. When judgments against the community are rendered, the cost is added onto the property tax, as a non-appropriated expenditure, as required by state law.

It would not be in the best interest of the Town to openly discuss the financial and legal strategy of a pending legal case in the open environment of Town Meeting and local cable access. A plaintiff, hearing such comments and measuring the public response, may be encouraged to raise the demand for settlement or decide that a court judgment may produce a higher return. Either result would be more costly to the Town.

This article seeks authorization to allow the Town to improve flexibility in this matter by adopting the procedures currently used in the Town's Appropriated Reserve Fund. The protocol is as follows:

1. The settlement must be recommended by Town Counsel;
2. The settlement must be approved by a majority of the Board of Selectmen;
3. The Advisory Committee must approve the expenditure by a majority vote;

- 4. In the event that Town Counsel does not recommend a settlement, funds may be appropriated by a two-thirds vote of Town Meeting.

By increasing speed and flexibility in our legal Settlement protocol, the Town may strengthen its financial position while reducing the cost of large judgments.

The Board of Selectmen unanimously recommends FAVORABLE ACTION on the following vote.

VOTED: That the Town authorize and approve the filing of a Petition with the General Court in substantially the following form:

AN ACT AMENDING CHAPTER 66 OF THE ACTS OF 1998 THAT ESTABLISHED A LIABILITY INSURANCE FUND IN THE TOWN OF BROOKLINE

Be It Enacted, etc., as follows:

Section 1. Section 2 in Chapter 66 of the Acts of 1998 is amended to read as follows:

SECTION 2. No direct drafts against the town of Brookline liability Insurance Fund (the fund) shall be made, but, insurance premiums, property damage losses, personal injury or other claims, litigation costs, judgments and settlements, recommended for payment by town counsel and approved by a majority of the board of selectmen, may be paid from the fund by vote of the advisory committee and a concurring vote of the board of selectmen. Losses, claims, costs, judgments and settlements, if not recommended by town counsel, may be appropriated by a two-thirds vote at any town meeting. The fund may be discontinued by a two-thirds vote of an annual or special town meeting. If discontinued, any balance remaining in the fund shall be transferred to the town's unreserved fund balance.

Section 2. This act shall take effect upon its passage.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 18 is a request for Home Rule legislation amending the existing legislation adopted in 1998, which authorized the Town to establish a liability insurance fund and to appropriate money to the fund not to exceed .05% of its equalized valuation each year. The fund can be used to pay insurance premiums, and property and liability losses, judgments and settlements, if the Town

Meeting appropriates amounts **from** the fund.

The proposed amendment would authorize money to be expended **from** the fund for these purposes upon recommendation of Town Counsel, and a concurring vote of the Board of Selectmen and the Advisory Committee, in a procedure that is similar to the procedure for authorizing the expenditure of money from the Reserve Fund. No other change in the legislation is proposed.

DISCUSSION

The proposed change in the procedure for expending money from the Fund requires some background about the Town's potential liability for large claims, the sources of funds to meet such claims and the practicalities of settlement.

The Town is a self-insurer for liability claims. The original and continuing purpose of the Liability Fund was to set aside sufficient funds to meet large claims against the Town, in advance, without serious adverse effect on the Town's operating budget in the year of payment. If a case goes to trial and a judgment is entered against the Town the amount of the judgment is by statute automatically included in the tax rate for the next year, which means a reduction in the funds that can be appropriated for other operating expenses. Ordinary tort claims against the Town, such as claims arising out of automobile accidents or negligence by town employees in the course of their duties, are capped at \$100,000, but civil rights claims and some other statutory claims are not so limited. Such claims, which could have a significant adverse impact on the Town's financial plan are rare, but they do occur and prudence requires a plan for dealing with them.

At present the Town has essentially three sources of funds to meet claims against it. The legal budget includes a line item to pay small claims, usually less than \$5,000 per claim and often much smaller. The Reserve Fund is available to pay somewhat larger claims, up to \$75,000 to \$100,000. In a typical year, the Reserve Fund would be adequate to meet one claim of this size, but it is primarily intended to be a reserve for a variety of other unexpected operating expenses, and in any case would not be available to meet a claim in the \$500,000 to \$1,000,000 range. Moreover, both the claims account in the legal budget and the Reserve Fund are returned to the general fund each year and do not provide an on-going source of funds. That is the purpose of the Liability Fund. At present the Fund stands at approximately \$700,000. If Town Meeting approves the recommended budget, an additional \$400,000 will be appropriated to it this year.

Presently, however, funds can be appropriated from the Fund only by Town meeting vote. This has two practical drawbacks. First, Town Meeting usually meets twice a year and it may be possible to settle a case on a favorable basis on very short notice. In many cases waiting for approval of a settlement by Town Meeting would prevent the settlement and force the Town to go to trial, with potentially adverse consequences. Second, it is not feasible to discuss the strengths and weaknesses of the Town's litigation position in open Town Meeting. Thus Town meeting could not be well informed when it was asked to appropriate money for a settlement.

Both these practical drawbacks can be avoided by authorizing the expenditure of funds to settle a case in the manner proposed in the legislation — namely a recommendation by Town Counsel, a vote of the Board of Selectmen, and a concurring vote of the Advisory Committee. As noted above this is the existing procedure to authorize expenditures from the Reserve Fund. The legislation also permits the appropriation of funds from the Liability Fund, without the recommendation of Town Counsel, by a two-third's vote. This would permit the expenditure of funds even after a judgment against the Town, without affecting the tax rate.

RECOMMENDATION

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

XXX

ARTICLE 19

NINETEENTH ARTICLE

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

AN ACT CONCERNING PARKING VIOLATIONS IN THE TOWN OF BROOKLINE

Be It Enacted, etc., as follows:

Section 1. Notwithstanding any general or special law to the contrary, the board of selectmen of the town of Brookline, acting under Section 20A1/2 in Chapter 90 of the General Laws, as herein modified, may establish fines for “all other parking violations,” that shall not exceed fifty (\$50.00) dollars, if paid within twenty-one days, fifty-five (\$55.00) dollars if paid thereafter but before the parking clerk reports to the registrar as provided in section 20A1/2, and seventy (\$70.00) dollars if paid thereafter.

Section 2. This act shall take effect upon its passage.

or act on anything relative thereto.

SELECTMEN’S RECOMMENDATION

The proposed warrant article will enable the Board of Selectmen of the Town of Brookline, through a home rule petition to be submitted to the General Court, pursuant to Chapter 90, Section 20A ½, to establish fines for parking violations that “shall not exceed fifty dollars (\$50.00), if paid within twenty-one days, fifty-five dollars (\$55.00) if paid thereafter but before the parking clerk reports to the registry as provided in Section 20A ½, and seventy dollars (\$70.00) if paid thereafter.”

The Brookline Police Department’s parking enforcement experience, together with growing concerns expressed by residents, recommendations from community parking and planning forums and recent surveys and reports regarding parking conditions and issues, emphasize that the success of ongoing parking violation enforcement must be coupled with an appropriate schedule of fines, particularly as related to repeat violations or chronic types of violations that may impact

the quality of life of neighborhoods, public and pedestrian safety and the economic health and competitiveness of commercial areas. Increases in parking fines will result in greater compliance with Brookline's parking regulations.

Goals

The proposed warrant article will enable the Town to address the following important goals:

1. Increase Pedestrian Safety

Numerous types of parking violations can significantly impact public and pedestrian safety, including parking violations that result in vehicles blocking intersections, crosswalks, sidewalks, public transit stops, entrances to public places and other locations where pedestrian access, separation and visibility is crucial.

2. Improve Traffic Safety

Traffic safety is also impacted when illegally parked vehicles repeatedly project into travel lanes or restricted parking zones designated to facilitate traffic flow and safety.

3. Preserve Overnight Parking Ban

The quality of life in Brookline's neighborhoods is measured in many ways and is enhanced by the long standing overnight parking ban which facilitates public and pedestrian safety, delivery of public services, alternative forms of travel and vehicular safety and circulation.

Recent neighborhood forums conducted as part of the initial Issues and Opportunities phase of the Town's comprehensive planning process have placed a high priority on maintaining the overnight parking ban, continued enforcement and strategies to provide alternative locations for daytime and evening off-street parking.

4. Improve Commercial Area Parking

The Town has adopted a comprehensive strategy to improve on and off-street parking in commercial areas. The strategy addresses commercial area parking management, programs, supply, rates, fines and enforcement in a unified manner.

One of the immediate recommendations of the strategy is to examine Brookline's schedule of parking fines and to make appropriate adjustments to enhance enforcement.

Supporting Findings and Conclusions

The proposed warrant article is supported by both trends in parking violations and enforcement activity and the conclusions and recommendations from the Commercial Areas Parking Committee and Town Administrator's Interdepartmental Implementation Team.

1. Parking Violations and Enforcement

Repeated complaints from residents and recent surveys and assessments of reoccurring or chronic parking violations in both commercial and residential areas indicate that violations of the overnight parking ban are primarily focused in neighborhoods near Boston.

Approximately 200 to 300 parking tickets are issued on an average evening, many to repeat offenders that, apparently due to the differences in parking fines between Brookline and Boston, elect to park on Brookline streets.

In commercial areas, the competition between customers and employees for limited on and off-street parking spaces is significant. Merchant parking programs are being established and expanded to provide suitable locations for long term daily employee parking. However, these programs will not be successful without ongoing outreach, enforcement and appropriate fines.

Overall, the issuance of parking violations has increased by more than 10,000 in Jan-Dec 2000, compared to Jan-Dec 1999, a substantial boost in enforcement.

2. Commercial Areas Parking Strategy

In June 2000, the Commercial Areas Parking Committee submitted its final report to the Board of Selectmen. The Committee, which included representation from the business community, Chamber of Commerce, Advisory Committee, Town Meeting, Transportation Board, Economic Development Advisory Board, Planning Board, Bicycle Advisory Committee, Preservation Commission and Board of Selectmen, advanced 25 specific and interrelated recommendations to be pursued over a one to five year period. The recommendations focused on an integrated and balanced approach to address parking management, supply, rates, fines, programs and enforcement.

The recommendations advanced by the Committee's report, which was adopted by the Board of Selectmen, were based in part on issues and opportunities expressed by Brookline residents and merchants during a series of three parking forums held in Coolidge Corner, Brookline Village and Washington Square. The report's recommendations also considered the results of a survey mailed to over 1400 businesses town wide.

One “immediate” recommendation advanced by the Committee was a comprehensive review of Brookline’s current schedule of parking fines and a comparison with surrounding communities. The recommendation also proposed that the fine schedule be updated based on an overall review and comparison.

To insure implementation of the Committee’s recommendations, the Town Administrator formed an interdepartmental task force. One of the initial tasks of the task force was the compilation and review of the enclosed summary of the Town’s current schedule of fines and a comparison with surrounding jurisdictions. As compared to the City of Boston and other selected jurisdictions, many of the Town’s current parking fines for various violations are significantly lower. The proposed warrant article will enable the Town to consider eliminating this disparity and to establish appropriate levels of fines which will assist in overall enforcement.

Recommendation and Next Steps

Town Meeting approval of the proposed warrant article will be an important action that will insure ongoing and effective enforcement of parking regulations. The quality of life of neighborhoods, the economic health of commercial areas and pedestrian safety will benefit as a result of the affirmative action of Town Meeting.

However, this proposed action must also be coupled with the following other supporting strategies that can be pursued both during and after the home rule petition is submitted for consideration by the General Court.

1. Complete a study of the actual registrations and frequency of vehicles violating the overnight parking ban to determine how to both assist Brookline residents and appropriately address nonresident parking impacts.
2. Complete detailed surveys, now underway, of commercial on and off street parking supply, demand, utilization, rates and programs to assist with the formulation, introduction and expansion of merchant and customer parking strategies.
3. Continue and expand the merchant outreach program to promote Town sponsored merchant parking programs and awareness of Town parking policies, regulations and enforcement.
4. Prepare and approve a revised schedule of parking fines for implementation, publication and enforcement.

5. Identify, evaluate and pursue opportunities to improve the allocation, design, management and supply of on and off-street parking to serve both daytime and evening demands generated by residents, employees, customers and visitors.

Implementation of these unified parking strategies will insure Brookline has a sound and proactive parking program that addresses both residential and commercial needs. Town Meeting approval of Warrant Article 19 will enable the Town to submit the necessary home rule petition to the General Court and to adequately and fairly adjust the schedule of parking fines and proceed with effective daytime and overnight parking enforcement.

The Board of Selectmen unanimously recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town authorize and approve the filing of a Petition with the General Court in substantially the following form:

AN ACT CONCERNING PARKING VIOLATIONS IN THE TOWN OF BROOKLINE

Be It Enacted, etc., as follows:

Section 1. Notwithstanding any general or special law to the contrary, the board of selectmen of the town of Brookline, acting under Section 20A ½ in Chapter 90 of the General Laws, as herein modified, may establish fines for “all other parking violations,” that shall not exceed fifty (\$50.00) dollars, if paid within twenty-one days, fifty-five (\$55.00) dollars if paid thereafter but before the parking clerk reports to the registrar as provided in section 20A 1/2 , and seventy (\$70.00) dollars if paid thereafter.

Section 2. This act shall take effect upon its passage.

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND

This Article would authorize the filing of a home rule petition with the Great and General Court to allow the Selectmen to increase parking fines up to \$50. The present limit is \$15 (with limited exceptions such as parking in a handicapped zone).

This article is offered by the Selectmen and primarily intended to address two problems:

1. Overnight parking fines in Brookline (\$15) are cheaper than in Boston (\$25) resulting in an influx of Boston overnight parkers into border Brookline neighborhoods; and
2. A perceived need to increase parking fines to decrease illegal parking and increase parking space turnover in our commercial areas.

The measure is not intended to raise revenue and it is not foreseen that fines will increase to the full \$50 authorized. Rather, it is anticipated that the fines would likely be at the \$25-\$30 level. The actual amount of the fines would be set by the Selectmen (not the Transportation Board) presumably with keen awareness of the views of Town residents.

DISCUSSION

With respect to the overnight parking problem, extensive anecdotal evidence appears to substantiate that overnight parking in neighborhoods bordering Boston, particularly precinct 11, is a significant problem. Our Public Safety sub-committee received a number of e-mails and both Town Meeting Members who attended our sub-committee's hearing testified to the on-going extensive problem with overnight parkers. The Town has also conducted a survey indicating that most overnight parking violations occur in neighborhoods bordering Boston. Brookline's \$15 fine for overnight parking is \$10 less than the Boston fine of \$25 for parking without a resident sticker (without which any parking, overnight or otherwise, is illegal). The anticipated increase would eliminate the incentive to save \$10 by illegally parking in Brookline. The Board of Selectmen argue that a _level playing field_ is essential to addressing the problem of overnight parkers from Boston.

The second problem, freeing up parking in our commercial areas, is a high priority of the Town's Planning and Community Development Department. That department conducted three forums and undertook a survey of 1400 merchants. According to town Director of Planning and Community Development Robert Duffy, based on the information obtained, it was concluded that freeing up additional parking is critical to the success of the Town's commercial areas program. A three part strategy was recommended for addressing this problem: programs for employee parking (to free up short term spaces near establishments for customer parking); looking at increasing the supply of parking; and increased parking fine amounts. Mr. Duffy also submitted that increased fines would increase public safety by discouraging illegal parking that intrudes on traffic flow or pedestrian walkways.

Police Chief O'Leary informed us of his belief that an increase in fines would significantly decrease illegal parking (overnight and otherwise) based upon the Town's experience in 1981, the last time fines were increased. At that time, when fines increased from \$5 to \$15, parking violations significantly decreased. The Town Meeting Members who testified at our sub-

committee hearing were generally supportive of an increase in fine amounts while expressing concern that \$50 was too high.

RECOMMENDATION

Parking problems in Brookline raise a wide range of issues that go far beyond the scope of this warrant Article. Police Chief O'Leary, Mr. Duffy, and the Selectmen all recognize that more than merely increasing fines is necessary to address the problems of overnight and commercial areas parking. Nonetheless, a large majority of our committee concluded that raising our fines to Boston's level is a logical response to a high volume of overnight parkers in border neighborhoods. We were less persuaded that this would address the commercial areas parking shortage, or substantially decrease other forms of illegal parking, but there seems little harm in providing the Selectmen this additional tool.

An articulate minority of our Committee was not opposed to increasing our parking fine amounts but felt that the Article should be amended to limit the increase to \$25 or \$30. This proposed amendment was rejected by a majority of our committee based upon a desire to avoid having to file additional home rule petitions should conditions change (for example if Boston were to change its fine amounts); a desire to give the Selectmen some flexibility; and the belief that the fact that any fine increase would be set by the Selectmen will provide accountability against any excessive increases.

Accordingly, by a substantial majority, the Advisory Committee recommends FAVORABLE ACTION on vote offered by the Selectmen.

XXX

ARTICLE 20

TWENTIETH ARTICLE

To see if the Town will adopt the following resolution and authorize the Board of Selectmen to forward a certified copy to the town's Legislative Delegation in the General Court:

WHEREAS, the use of hand held cell phones and similar communications devices by the operators of motor vehicles (except for the operators of emergency vehicles), while operating their vehicles on the streets and highways of the Commonwealth, has created and continues to create profound safety problems that include loss of life, personal injury and property damage;

WHEREAS, the Attorney General has ruled that a city or town can not adopt by-laws or ordinances that prohibit such use of cell phones and similar communications devices;

NOW, THEREFORE, THE TOWN OF BROOKLINE RESPECTFULLY REQUESTS THAT THE GREAT AND GENERAL COURT ENACT STATEWIDE LEGISLATION THAT BANS THE USE OF CELL PHONES AND SIMILAR COMMUNICATIONS DEVICES BY THE OPERATORS OF MOTOR VEHICLES WHILE OPERATING A MOTOR VEHICLE ON THE STREETS AND HIGHWAYS IN THE COMMONWEALTH, EXCEPTING ONLY THE OPERATORS OF EMERGENCY VEHICLES FROM SUCH REGULATION.

or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Article 20 is a resolution calling on the Great and General Court to enact statewide Legislation that bans the use of hand held cellular phones while driving, except for the operation of emergency vehicles. It is in response to the Attorney General's declaration that the Town By-Law approved by Town Meeting last November under Article 7, which would have banned the use of cell phones while driving in the Town of Brookline (again, with the exception of operators of emergency vehicles), was illegal. In his words, "[T]owns may not enact bylaws that are inconsistent with the Constitution and laws of the Commonwealth."

In the Selectmen's Recommendation on Article 7, found in the Combined Reports for the November, 2000 Town Meeting, the Board stated that "[W]hile the Board understands and appreciates the

petitioner's intentions, we believe that a statewide approach needs to be taken". We still firmly believe this and call on the State Legislature to pass standard Legislation that will put an end to this public safety hazard. We support a statewide approach because the enactment of laws by local governments would lead to consumer confusion, legal and regulatory uncertainty, litigation, and enforcement problems. The Attorney General's ruling supports this belief.

State Senator James J. Jajuga filed "An Act Restricting the Use of Mobile Telephones While Operating a Motor Vehicle" (Senate 1217), co-sponsored by State Representatives Timothy J. Toomey, Edward G. Connolly, Emily J. Goguen, and Jose L. Santiago, on January 3, 2001. A public hearing on the bill was subsequently held on March 22 at 10:00 a.m. at the State House. The Board supports the bill and urges the Legislature, via this Resolution, to support the bill.

Massachusetts is not alone in its pursuit of banning the use of cell phones while driving. This year, Legislators in 38 states (as of April 9) – including Massachusetts, Rhode Island, Connecticut, Vermont, and New Hampshire – are working on bills that would forbid drivers from using cell phones, and many are expected to pass.

The Board unanimously recommends FAVORABLE ACTION on the following vote.

VOTED: That the Town adopt the following resolution and authorize the Board of Selectmen to forward a certified copy to each member of the Great and General Court, Acting Governor, Attorney General, Executive Office of Public Safety, and to each Board of Selectmen and Mayor of all cities and towns within the Commonwealth of Massachusetts:

WHEREAS, the use of hand held cell phones by the operators of motor vehicles (except for the operators of emergency vehicles), while operating their vehicles on the streets and highways of the Commonwealth, has created and continues to create profound safety problems that include loss of life, personal injury and property damage;

WHEREAS, the Attorney General has ruled that a city or town can not adopt by-laws ordinances that prohibit such use of cell phones and similar communications devices;

NOW, THEREFORE, THE TOWN OF BROOKLINE RESPECTFULLY REQUEST THAT THE GREAT AND GENERAL COURT ENACT STATEWIDE LEGISLATION THAT BANS THE USE OF HAND HELD CELL PHONES BY THE OPERATORS OF MOTOR VEHICLES WHILE OPERATING A MOTOR VEHICLE ON THE STREETS AND HIGHWAYS IN THE COMMONWEALTH, EXCEPTING ONLY THE OPERATORS OF EMERGENCY VEHICLES FROM SUCH REGULATION.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This is an article proposed by the Selectmen which would ask Town Meeting to adopt a resolution calling upon the Great and General Court to enact statewide legislation banning the use of cell phones while driving except for emergency personnel. It is proposed by the Board of Selectmen to support the will of Town Meeting, which voted a ban on the use of cell phones while driving in Brookline. This by-law was recently invalidated by the Attorney General as conflicting with State law.

Town Meeting members may recall that much of the opposition to the cell phone ban previously enacted by Town Meeting was based upon perceived problems in passing such a ban on the municipal level. A summary of the arguments with respect to whether cell phone use while driving should be banned at all is set forth below.

DISCUSSION

Should Using a Cell Phone While Driving be Prohibited?

A number of countries, including Israel, Japan, Hong Kong, and Brazil have banned the use of cell phones while driving. There are difficulties in collecting accurate data on this subject. Nonetheless, a recent study of Canadian accidents, published in the *New England Journal of Medicine*, concluded that "using a cellular telephone was associated with a risk of having a motor vehicle collision that was about four times as high as that among the same drivers when they were not using their cellular telephones." Redelmeier and Tibshirani, "*Association Between Cellular Telephone Calls and Motor Vehicle Collisions*", 336 *New England Journal of Medicine* 453 (February 13, 1997). The authors concluded this risk was not significantly decreased by use of a hands free unit, and hypothesize that the risk is caused by the distraction of conversation, not dialing or holding the telephone. An analysis of available data by the National Highway Traffic Safety Administration (NHTSA) also concluded that use of cell phones while driving increased the risks of accidents, although they did not attempt to precisely quantify the risk. ("*Investigations of Safety Implications of Wireless Communications in Vehicles*", available at www.NHTSA.gov/people/injury/research/wireless). Despite these conclusions, however, neither study calls at this time for a ban on use of cell phones while driving. Both suggest that additional consideration of costs and benefits to such regulations, as well as additional data collection regarding accident causes should be conducted. It has been reported in the press that a recent study by the American Automobile Association (AAA) suggests that the relative risk of using cell phones while driving is minimal. The study itself is not yet available for review.

Police Chief O'Leary is supportive of such a ban if enacted statewide, although there is not yet much statistical evidence on the relationship between cell phone use and accidents in Massachusetts.

RECOMMENDATION

Based on last Fall's Town Meeting vote in favor of banning cell phone use while driving and a sense in our committee that such use is likely to contribute to motor vehicle accidents, the Advisory Committee, by a large majority, recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 21

TWENTY-FIRST ARTICLE

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

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO REGULATE THE OPERATION AND USE OF HAND HELD TELEPHONES, INCLUDING SO-CALLED CELLULAR TELEPHONES AND SIMILAR HAND HELD DEVICES, IN MOTOR VEHICLES

Be it enacted, etc. as follows:

Section 1. Notwithstanding the provisions of any general court or special law to the contrary, the Town of Brookline may, by by-law, regulate the use and operation of hand held telephones, including so-called cellular telephones and similar hand held devices, by persons, other than police officers, firefighters and operators of emergency vehicles, operating motor vehicles on any street or highway.

Section 2. This act shall take effect upon its passage.

or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

The petitioner of Article 21, Home Rule Legislation that would prohibit the use of cellular phones while driving, has requested that the article be withdrawn in light of the fact that statewide Legislation regulating the use of cell phones is pending. As detailed in the Selectmen's Recommendation for Article 20, the Board fully supports statewide Legislation and urges the Legislature to enact a bill that prohibits the use of cell phones while driving.

The Board of Selectmen unanimously recommend NO ACTION on this article.

ADVISORY COMMITTEE'S RECOMMENDATION

Based on the petitioner's request that no action be taken, the Advisory Committee unanimously recommends NO ACTION on this Article.

ARTICLE 22

TWENTY-SECOND ARTICLE

To see if the Town will adopt the following resolution or will amend and adopt said resolution or will take any other action with respect thereto:

Whereas the St. Aidan's Church, located at 158 Pleasant Street, is of great historical significance to the Town of Brookline, having been the church attended by the family of the late President John F. Kennedy when the family lived on Beals Street and later on Abbottsford Road, the church where John F. Kennedy and five of his brothers and sisters were baptized,

And whereas the St. Aidan's Church is no longer used as a parish church by the Archdiocese of Boston and faces an uncertain future,

And whereas the Town, through its by-laws, has established the Brookline Preservation Commission to promote the educational, cultural, physical, economic and general welfare of the public through the preservation and protection of the historical assets of Brookline, including buildings, sites and districts of historical and architectural interest; through the maintenance of such landmarks of the history of Brookline, the Commonwealth and the Nation, and through the development of appropriate uses and settings for such buildings and places,

Now, therefore, the Town calls on the Brookline Preservation Commission, acting under Article 5.6 of the By-laws of the Town and under Chapter 40C of the General Laws, to conduct an investigation and public hearing for designating the St. Aidan's Church property, shown in the Atlas of the Town as Block 27, Lots 1-3 and 56, or any portion thereof or structures or portions of structures thereon, as an historic district in the Town of Brookline,

And, furthermore, the Town calls on the Brookline Preservation Commission to submit a report on its findings, together with proposed actions, if any, to the next Special or Annual Town Meeting held after July 31, 2001.

or act on anything relative thereto.

This article has been filed as part of efforts seeking ways to preserve St. Aidan's Church, located at 158 Pleasant Street, in recognition of its great historic value to North Brookline neighborhoods, to the Commonwealth and to the United States. St. Aidan's is named for the Irish monk, Aidan, who lived from about 600-651 and became the first abbot of Lindisfarne. The architects for St. Aidan's were Maginnis and Walsh, also designers for Boston College and Emmanuel College. Charles Maginnis was a member of the founding congregation of St. Aidan's Church. Construction began in 1911. The architectural style of St. Aidan's Church was adapted from medieval village churches, with a half-timber, stucco and fieldstone façade, slate dormers, full-story Gothic style stained glass windows and a steep spire. The St. Aidan's rectory was constructed by remodeling a house built on the site about 1850 by Edward G. Parker and owned by Isabelle Chadbourne from about 1870 to 1910. Several years ago, federal funding was obtained to help restore the church spire, since St. Aidan's Church is listed in the National Register of Historic Places.

The late Joseph P. and Rose F. Kennedy and their family were members of the St. Aidan's congregation from 1915 to 1927 when they lived nearby, first on Beals Street and later on Abbottsford Road. Their son, the late President John F. Kennedy, who was born in 1917 on Beals Street, as well as five of his brothers and sisters were all baptized at St. Aidan's Church by Msgr. John Creagh, pastor from 1913 to 1951. John F. Kennedy and his brother Joseph P. Kennedy, Jr., served as altar boys. The Saint Aidan's Church is one of our sites in the neighborhood visited on tours of Kennedy family history arranged by the National Park Service.

Houses near St. Aidan's Church on the Freeman Street side were mostly built between 1885 and 1915. Most houses on the Crowninshield Road side were built between 1905 and 1925. The large block across Pleasant Street formerly had two low-rise brick buildings near the corner of Pleasant and Freeman Streets and along St. Paul Street housing the Dexter School, with the rest of the land open. In 1972 the current Dexter Park apartment building replaced the school. Diagonally opposite, across the corner of Pleasant and Freeman Streets, were the low-rise brick buildings of the former St. Aidan's School and Convent, opened in the early 1920s but closed well before the property was sold in the late 1960s. The current Amory House apartment buildings were constructed in 1974, leaving intact some of the brick and wrought iron walls around the former St. Aidan's Convent.

During recent decades, the Archdiocese of Boston has begun to consolidate and close churches and parishes and to redevelop properties, mostly as housing. St. Aidan's is the first church in Brookline to be affected by consolidation or closure. It was merged with St. Mary's Church in Brookline Village on July 1, 1999. Later in the summer of 1999 St. Aidan's was closed as a parish church. The church property is currently leased to the Melkite Greek Catholic Eparchy, housing its diocesan offices and the St. Gregory Seminary; the Melkite order has parishes in eighteen states.

Petitioners for this Article anticipate a future time when the Melkite Eparchy will move to its own facility, and the Archdiocese of Boston will arrange for redevelopment of the St. Aidan's Church property. We believe that the Town must begin now to examine the issues of historic preservation, and we call for favorable action on the Article as a first step.

SELECTMEN'S RECOMMENDATION

Article 22 is a citizen petition directing the Preservation Commission to study the designation of St. Aidan's church as a local historic district. The next step, after a favorable study, would be to submit that report to the Planning Board and Massachusetts Historical Commission. After a public hearing, the report would then go back to Town Meeting, which could chose by a 2/3 majority to designate the property as a local historic district. If a local historic district is established, all exterior work that is visible from a public way or street is subject to public review by the Preservation Commission and needs a Certificate of Appropriateness or Hardship to proceed.

While this article simply calls for a study, which in and of itself sounds neutral and does not need Town Meeting action to initiate, in fact this article sets us on a path which may result in outcomes desired by few if any of the affected parties. This warrant article is not the best way to facilitate collaboration between the Archdiocese, the Town, and the neighbors. The Selectmen are also deeply concerned about a process that would designate a property for a status that its owner finds objectionable.

Background

More than a year ago the Archdiocese of Boston announced its plan to close St. Aidan's Church and to consolidate the parish into St. Mary's. Aware of these published reports, the Town contacted the Archdiocese to learn of their intentions. Last year a representative of Cardinal Law and Father Ahearn, the pastor of St. Mary's, shared general ideas with the town. We learned of the Cardinal's deep commitment to affordable housing, and of the Archdiocese's track record of developing high quality mixed-income housing. We also heard the local pastor's concerns about the site's reuse, his desire to have his parish council actively involved in redevelopment, and his commitment to serve the local community. We received the impression that there was hope that ultimately this site could be used for a sensitive, thoughtful mixed-income housing development, but that there was internal sorting out for the Archdiocese to do. The Town and the Archdiocese would reconvene once those internal decisions had been made, and that as soon as the threshold

questions had been answered, we would together engage in a neighborhood process to discuss the redevelopment opportunities and to develop a shared vision for the site.

Given the extent of time that had passed since the initial announcement, neighbors of St. Aidan's became concerned that plans were being made for the site's reuse independent of their input. Naturally, they worried about issues many neighborhoods would share: density, design, traffic impacts, and loss of an historic structure and open space which enhance the neighborhood. In the absence of information about what the Archdiocese plans, they took steps to protect the site by seeking designation as a local historic district. The Preservation Commission discussed this matter at a public meeting, but since they were simply considering a study did not notify the pastor of St. Mary's. The Commission then voted to support the study.

Town's Affordable Housing Initiatives

The Town has been concerned for some time with the need for more affordable housing. In 1997, the Town hired its first Housing Development Officer to seek opportunities for preserving and creating affordable housing. In 2000, the Selectmen appointed a Housing Opportunities Task Force (HOTF) to raise the level of attention being focussed on development of new affordable housing. The HOTF sponsored 2 well-attended public forums at the beginning of this year, which surfaced a very high level of citizen interest in the issue. The citizenry gave a clear message to us that they wanted the Town to be proactive in promoting more affordable housing.

For good reason: over the last 10 years, the gap between median housing prices and area median income has grown astronomically. In 1991, the difference between what a typical household could afford and what a typical Brookline unit cost was \$10,000—a gap which could be closed with modest programs. By 2000, that gap had risen to \$150,000—a different order of magnitude. And the supply of affordable housing is shrinking, despite best efforts to the contrary. Today we are a full 568 units short of achieving the very modest state goal of 10% affordable housing. Furthermore, there is growing evidence that communities that do not attempt to address affordable housing needs will suffer financial consequences from the state in the form of reduced state aid.

Throughout the Town efforts to date, a major impediment to success has been the lack of appropriate sites. Land prices are so high here that it pushes all uses to luxury condominiums. St. Aidan's presents a unique opportunity, where the owner of the site values the outcome and not exclusively the sales revenue. In addition, given the extensive and impressive track record of the Archdiocese's development arm, we have here an exciting opportunity for quality development. We therefore have the potential for a partnership on a real site, where the partner has the skills, talent, and motivation to deliver the kind of mixed-income project Brookline has been seeking.

The imperative for action to promote affordable housing development is clear. The fact that St. Aidan's could present an excellent opportunity for that is also clear. This warrant article does not advance this goal, and in fact could impede its accomplishment.

St. Aidan's site

St. Aidan's church is indeed a very beautiful building of historic significance. It was built in 1911 by the nationally prominent firm of Maginnis and Walsh. According to the National Register nomination, "the exterior of St. Aidan's expresses perfectly the ideal of design simplicity." Also, as noted by the petitioners, it is set on a wide lawn with majestic trees.

No one questions the historic value of St. Aidan's. The Selectmen share the concerns that have been expressed for the preservation of elements of the church exterior and the landscaping. In fact, the designation of St. Aidan's on the National and State Registers of Historic Places offers the neighbors some protections against random destruction of the property. The designation also offers the possibility of federal tax credits for rehabilitation and other potential sources of funding for preservation. Should the Archdiocese decide to move forward with site redevelopment, the Town will be advocating and encouraging the adaptive reuse of the church building and landscaping.

Furthermore, we will be working to facilitate appropriate design that fits well within the neighborhood context and is appropriately scaled and detailed. Also, of course, we will be advocating the creation of the maximum affordability for the site, and that the terms of the affordability be long term.

The Archdiocese and Local Parish

The Archdiocese, speaking through the local parish, has made it clear that they strenuously oppose the study and the potential designation as a local historic district. To date, the Preservation Commission has never recommended a historic district where the property owners are 100% opposed to the designation. We find this past practice to be appropriate. Should neighbors of a private home be allowed to collectively demand that this home be a local historic district against the wishes of the owner? We find the precedent that could be set here to be extremely troubling on the one hand, and counterproductive on the other.

The Town's and neighborhood's influence on the outcome of this redevelopment is much greater if the Archdiocese chooses to collaborate with the Town. Through such collaboration, the Town can facilitate a dialogue about the tradeoffs inherent in a redevelopment—tradeoffs between height and density, degree of architectural preservation, open space, amount of affordability, landscaping and other amenities.

This warrant article and the study it commissions are clearly seen as hostile acts by the Archdiocese. As such, it is hard to see how passage can foster the collaborative environment we need to maximize Town and neighborhood input.

Conclusion

The neighbors of St. Aidan's have some very real concerns about the potential redevelopment of this property. The Board of Selectmen share many of the concerns, and believe in a participatory process around any property redevelopment. We also share Cardinal Law's sense of urgency about the need for affordable housing, and admire his track record in achieving it. **We believe the best way to advance everyone's objectives is to maintain open communications and active dialogue.** We believe that passage of this warrant article would jeopardize the potentially collaborative relationship between the Town, neighbors, and parish.

Therefore, a majority of the Board of Selectmen recommends NO ACTION on the article.

ADVISORY COMMITTEE'S RECOMMENDATION

Summary of Article

Article 22 is a resolution directing the Preservation Commission to conduct an investigation and hold a hearing for the purpose of designating the St. Aidan's Church property as a historic district under G.L. c 40C and the Town By-law and to submit its findings, together with proposed actions, to the next Town Meeting held after July 31,2001.

Factual and Legal Background

The petitioners supplied the members of the Advisory Committee with much information in support of their petition showing that the St. Aidan's Church has architectural significance as an example of a village church in the gothic revival style by Charles Maginnis, a prominent local architect in the first half of the 20th century who designed many Catholic churches and buildings at Boston College and that the church also has historic significance as one of the center of one of the early Catholic parishes in Brookline and the place of worship of the Kennedy family, including John F. Kennedy, from 1915-1927. The Church is on the National Register of Historic Places. The property contains about 1.5 acres and includes an attached rectory building that was remodeled in the 1920's in a style consistent with the church. In 1999 the Archdiocese of Boston consolidated St. Aidan's parish into St. Mary's parish in Brookline Village, which now holds the property in trust for the Archdiocese. It is presently occupied by the Greek Melkite Catholic Exparchy, pending construction of a new building for that organization in Roslindale.

The petition was filed in response to concern that following the departure of the present tenants, the property might be demolished and that a large project like the neighboring Dexter Park might be constructed on the site. There have been rumors that St. Mary's and the Archdiocese are considering affordable or mixed use housing of some sort on the site, but these rumors have not yet been confirmed. A representative of St. Mary's Parish stated that no decision to demolish or use the property for any particular purpose had been made, but agreed that the final decision would be made by the Archdiocese.

Historic Districts in Town

The Town has established two Historic Districts – Cottage Farm and Pill Hill, in accordance with the procedures described below. Under the statute and Town By-law no building in an Historic District can be altered in any way that “affects the exterior features of the building” without the approval of the Preservation Commission. The Preservation Commission has no authority over the interior or use of buildings in an Historic District.

The Preservation Commission was established and the first historic district - Cottage Farm - was created in accordance with the statutory procedures, following a study and recommendation by a Study Committee and the adoption of a local by-law defining the boundaries of the district, by a two thirds vote of Town Meeting. After the creation of the first district in town, a district may be expanded or reduced in area, and new districts may be created, following an “investigation and report on the historical and architectural significance of the buildings, structures or sites to be included in the proposed historic district” by the Preservation Commission and a two-thirds vote by Town Meeting to establish the new district. In recent years two other districts have been proposed and voted down by the Town Meeting. The Chairman of the Preservation Commission informed the Committee that in all previous cases the owners of property in the proposed district have approached the Commission and requested the investigation and report that is the first step in the statutory process.

In the present case no such request was made by the owner of the property or by anyone else, prior to the submission of the present petition article by neighbors and others interested in preservation of the property. The Preservation Commission has taken no action with respect to the requested study but the Chairman says that it is ready and willing to do so, and that he believes the property has architectural and historic value which would warrant its inclusion in an Historic District. According to the Planning Director the first step in such a study would be the determination of the scope of the study, or in other words the area that might be included in the proposed district. There were suggestions during the Advisory Committee's hearings that other properties in the neighborhood were also worthy of preservation.

Discussion

There are several unique features about this case. In the case of all previous historic districts established by the Town, the initial impetus for the creation of the district came from the residents

of the area proposed to be included in the district. Here St. Mary' parish strongly opposes the inclusion of the property in a historic district.

This is also the first case in Brookline in which a district consisting of a *single property* has been proposed. The statute permits the creation of such a district and a few exist in other cities and towns, but it is relatively rare. According to the Preservation Commission whenever a district has been created in Town, the majority of owners in the proposed district have initially supported its creation, even if some individuals have opposed it. The fact that two out of the four districts proposed in Brookline have not been adopted demonstrates the sensitivity of Town Meeting to the views of owners. Finally there are many homes in Brookline with significant architectural and/or historic interest, and the creation of a single-property district raises issues that deserve full public discussion.

All parties agree that the issue raised by Article 22 is **not** whether the St. Aidan's property should be included in an historic district. No investigation of that issue has been made by the Preservation Commission, which is given, by both the state statute and the Town by-law, the duty of making such an investigation and report, before any action by Town Meeting. Even more clearly the issue is not how the property should be used, or whether it is possible both to preserve the exterior of the buildings and to use them for affordable housing or some other use. There are no plans or proposals before the Committee or the Town Meeting that would permit discussion of such alternatives.

Rather the issue is one of process and procedure – whether the Town Meeting should be asked to direct the Preservation Commission to undertake a study of whether a particular property should be included in a new historic district, without following the statutory procedures, in particular without the required report of the Preservation Commission, which is the body charged with making a study and recommendation to Town Meeting. The Advisory Committee was split on this issue and this report will therefore try to summarize the pros and cons as presented to the Committee.

Pros

The petitioners and a majority of members of the Committee who voted say that the resolution simply directs the Preservation Commission to make the requested investigation and report to Town Meeting, in accordance with the statute. Indeed petitioners assert that the Preservation Commission would not have to follow the direction of Town Meeting in the resolution and could undertake a different study or no study at all. They noted that the property seems to have historical significance and that if there is later discussion about other uses for the property, they would like to know what is being lost. Some of the proponents noted that they are not opposed to the concept of affordable housing on the site but would like the existing church building preserved as well.

Cons

Other members of the Committee say that if this were the case no resolution is needed. They also say that the proponents' view of the effect of a resolution is unrealistic and that a favorable vote

on the resolution will tend to foreclose full consideration of the merits of the case by the Commission and the Town Meeting. These members believe that Town Meeting is best served by adhering to the established statutory procedures for study and recommendation by the Preservation Commission, before any action by Town Meeting, particularly in a situation with so many unique and difficult issues.

In short both proponents and opponents agree that the resolution is and should not be considered to limit the scope of the Preservation Commission's investigation or to prejudge the issues that may come before Town Meeting as a result of that study. In particular, Town Meeting must recognize that the establishment of a new district requires a two-thirds vote, while passage of the resolution requires only a majority.

Recommendation

Based on these arguments, a narrow majority of the Advisory Committee recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town adopt the following resolution:

Whereas the St. Aidan's Church, located at 158 Pleasant Street, is of great historical significance to the Town of Brookline, having been the church attended by the family of the late President John F. Kennedy when the family lived on Beals Street and later on Abbottsford Road, the church where John F. Kennedy and five of his brothers and sisters were baptized,

And whereas the St. Aidan's Church is no longer used as a parish church by the Archdiocese of Boston and faces an uncertain future,

And whereas the Town, through its by-laws, has established the Brookline Preservation Commission to promote the educational, cultural, physical, economic and general welfare of the public through the preservation and protection of the historical assets of Brookline, including buildings, sites and districts of historical and architectural interest; through the maintenance of such landmarks of the history of Brookline, the Commonwealth and the Nation, and through the development of appropriate uses and settings for such buildings and places,

Now, therefore, the Town calls on the Brookline Preservation Commission, acting under Article 5.6 of the By-laws of the Town and under Chapter 40C of the General Laws, to conduct an investigation and public hearing for designating the St. Aidan's Church property, shown in the Atlas of the Town as Block 27, Lots 1-3 and 56, or any portion thereof or structures or portions of structures thereon, as an historic district in the Town of Brookline,

And, furthermore, the Town calls on the Brookline Preservation Commission to submit a report on its findings, together with proposed actions, if any, to the next Special or Annual Town Meeting held after July 31, 2001.

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ARTICLE 23TWENTY-THIRD ARTICLE

To see if the Town will adopt the following:

Resolution Supporting Abolition of Death Penalty and Passage of Innocence Protection Act

WHEREAS, there is increasing alarm about the inevitability of executing innocent persons in the U.S.A., with (as of March 1, 2001) 95 inmates exonerated after being sent to Death Row since the death penalty's 1976 reinstatement – often by sheer luck, proving that the justice system does not work well enough to execute people; in Illinois, 13 such inmates were freed since 1977, more than the 12 executed there; *and*

WHEREAS, the death penalty has always been imposed in an arbitrary, and particularly, a discriminatory manner in the U.S.A.; *and*

WHEREAS, *habeas corpus* and other avenues of judicial review have been substantially curtailed by legislation and judicial rulings; *and*

WHEREAS, some US jurisdictions even have the death penalty for people who have mental impairments and/or were under the age of 18 at the time of their offenses; *and*

WHEREAS, several recent Supreme Court Justices – Brennan, Marshall, Powell, and Blackmun – have expressed serious doubts about death penalty ever being imposed fairly and justly, with Justice Powell saying that his greatest regret was voting to uphold its constitutionality, and Justice Blackmun stating in dissent, “the death penalty experiment has failed”; *and*

WHEREAS, the death penalty is the costliest punishment, and diverts major resources from real crime prevention measures, including police departments, better education, and increasing employment; *and*

WHEREAS, the death penalty does not deter more than our current mandatory penalty of life imprisonment without parole; instead, it brutalizes society by espousing the legitimacy of lethal vengeance; *and*

WHEREAS, most democracies, most of our international allies, and most leading religious denominations have all concluded that the death penalty is an immoral perpetuation of a culture and a cycle of violence; *and*

WHEREAS, the American Bar Association, calling it “a haphazard maze of unfair practices with no internal consistency,” has issued a welcome call for an execution moratorium until procedures are devised to “ensure” fair administration and to “minimize” the risk of executing the innocent; but in fact such procedures and assurances are impossible to achieve for a justice system administered by fallible human beings; *and*

WHEREAS, throughout the U.S.A., uneasiness grows with the death penalty, as evidenced by the growing number of opponents, last year’s New Hampshire votes to abolish it, and Illinois’ current moratorium,

NOW, THEREFORE, BE IT RESOLVED, that Brookline’s representative Town Meeting urges:

- (1) Brookline’s citizens and elected officials to join it in hereby strongly condemning the death penalty and in calling for the immediate and permanent end to executions – in the U.S.A. and worldwide; and
- (2) support, as interim measures, for death penalty moratoria and for legislation like the “National Death Penalty Moratorium Act” [by Sen. Feingold (WI)] and the “Innocence Protection Act,” [Sen. Leahy (Vt.) and, *inter alia*, Rep. Delahunt (MA)]; and
- (3) elected and appointed officials of the Town, the Commonwealth, all state and local governments, the government of the United States, and governments worldwide to do everything in their power, and work with death penalty opponents, to end executions as a form of punishment; and
- (4) that copies of this Resolution shall be forwarded to death penalty abolition leaders, the Governor, our state representatives, our representatives in Congress, and President Bush.

or act on anything relative thereto.

This Resolution, written while the Massachusetts General Court is in the midst of yet another debate about reinstating the death penalty here, and as the U.S.A. approaches the 700th execution since 1976, speaks for itself. In part due to the leadership of Brookline residents, from Sarah and Herbert Ehrmann and Max Stern (Mass. Abolitionist leaders); to Gov. Dukakis; to state

Sens. Jack Backman, Lois Pines, and Cynthia Creem; to Rep. John Businger and now all five of our current state representatives, there has been no execution in Massachusetts since May 9, 1947. In 1982 Brookline Town Meeting passed an anti-death-penalty Resolution; and Brookline citizens voted 55-45% against reinstatement in the referendum of that year. The proposed 2001 Resolution is similar to one being proposed to across the U.S.A., over 1500 groups, including 41 municipal legislatures having passed them so far. As of this date, Brookline might be the first municipal legislature to pass one in Massachusetts, which would be fitting.

SELECTMEN'S RECOMMENDATION

The Board unanimously recommends FAVORABLE ACTION on the following vote for the reasons stated therein:

VOTED: That the Town adopt the following:

Resolution Supporting Abolition of Death Penalty and Passage of Innocence Protection Act

WHEREAS, there is increasing alarm about the inevitability of executing innocent persons in the U.S.A., with (as of March 1, 2001) 95 inmates exonerated after being sent to Death Row since the death penalty's 1976 reinstatement – often by sheer luck, proving that the justice system does not work well enough to execute people; in Illinois, 13 such inmates were freed since 1977, more than the 12 executed there; *and*

WHEREAS, the death penalty has always been imposed in an arbitrary, and particularly, a discriminatory manner in the U.S.A.; *and*

WHEREAS, *habeas corpus* and other avenues of judicial review have been substantially curtailed by legislation and judicial rulings; *and*

WHEREAS, some US jurisdictions even have the death penalty for people who have mental impairments and/or were under the age of 18 at the time of their offenses; *and*

WHEREAS, several recent Supreme Court Justices – Brennan, Marshall, Powell, and Blackmun – have expressed serious doubts about death penalty ever being imposed fairly and justly, with Justice Powell saying that his greatest regret was voting to uphold its constitutionality, and Justice Blackmun stating in dissent, “the death penalty experiment has failed”; *and*

WHEREAS, the death penalty is the costliest punishment, and diverts major resources from real crime prevention measures, including police departments, better education, and increasing employment; and

WHEREAS, the death penalty does not deter more than our current mandatory penalty of life imprisonment without parole; instead, it brutalizes society by espousing the legitimacy of lethal vengeance; *and*

WHEREAS, most democracies, most of our international allies, and most leading religious denominations have all concluded that the death penalty is an immoral perpetuation of a culture and a cycle of violence; *and*

WHEREAS, the American Bar Association, calling it “a haphazard maze of unfair practices with no internal consistency,” has issued a welcome call for an execution moratorium until procedures are devised to “ensure” fair administration and to “minimize” the risk of executing the innocent; but in fact such procedures and assurances are impossible to achieve for a justice system administered by fallible human beings; *and*

WHEREAS, throughout the U.S.A., uneasiness grows with the death penalty, as evidenced by the growing number of opponents, last year’s New Hampshire votes to abolish it, and Illinois’ current moratorium,

NOW, THEREFORE, BE IT RESOLVED, that Brookline’s representative Town Meeting urges:

- (1) Brookline’s citizens and elected officials to join it in hereby strongly condemning the death penalty and in calling for the immediate and permanent end to executions – in the U.S.A. and worldwide; and
- (2) support, as interim measures, for death penalty moratoria and for legislation like the “National Death Penalty Moratorium Act” [by Sen. Feingold (WI)] and the “Innocence Protection Act,” [Sen. Leahy (Vt.) and, *inter alia*, Rep. Delahunt (MA)]; and
- (3) elected and appointed officials of the Town, the Commonwealth, all state and local governments, the government of the United States, and governments worldwide to do everything in their power, and work with death penalty opponents, to end executions as a form of punishment; and
- (4) that copies of this Resolution shall be forwarded to death penalty abolition leaders, the Governor, our state representatives, our representatives in Congress, and President Bush.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Warrant Article 23 is a resolution supporting, *inter alia*, abolition of the death penalty. It was filed by petition led by Precinct 9 Town Meeting Member Martin Rosenthal, on behalf of both Brookline PAX and Mass. Citizens Against the Death Penalty, both of which he co-chairs. If passed, it would be disseminated to the Governor, the President, our state and national representatives, and death penalty abolition leaders.

DISCUSSION

The Commonwealth of Massachusetts had a mandatory penalty of life imprisonment without parole for First Degree Murder. We do not currently have a death penalty statute, and we have not executed anyone here since 1947; but the issue is regularly brought before the state legislature (which recently voted it down in the House, 94-60). Nationwide, in the 38 states and federal government, there have been nearly 700 executions since 1976 (when a 4-year moratorium imposed by the Supreme Court ended). In that same time span, 95 inmates who had been sent to death row have been exonerated. In a few of these cases, use of new DNA technology has led to the convictions being overturned. In addition, there are widespread concerns that the death penalty is applied in a discriminatory manner based on racial and economic factors, and that it contributes to a cycle of vengeance. (The "Whereas" clauses of this article present an overview of the concerns of death penalty opponents.)

Brookline Town Meeting passed an anti-death penalty resolution in 1982; and Brookline residents voted approximately 55-45% against reinstatement in a ballot question referendum (which nonetheless passed) that same year. Many Brookline residents, and our entire state legislative delegation, have been active, dating back to the Sacco-Vanzetti case in the 1920's, in the effort to see that the death penalty is not reinstated in Massachusetts -- and that it is reexamined and abolished nationally.

This resolution is similar to others being proposed in private groups and in cities, towns, and states across the country. The effort has been coordinated under the name, "*Equal Justice USA*," by the The Quixote Center, of Hyattsville, MD. They maintain a web site with further information.

As of April 23, as many as 1748 groups, including over 44 municipalities, have passed comparable resolutions. If this one passes, Brookline would be among the first municipalities in Massachusetts to do so.

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RECOMMENDATION

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

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ARTICLE 24

TWENTY-FOURTH ARTICLE

That the Town Meeting, by its affirmative vote at the Annual Meeting, establish the ENTERPRISE FUND ADVISORY COMMITTEE to consist of Nine (9) Members appointed by the Town Moderator with the make-up of the Committee to be as follows:

- i. Two (2) members thereof to be selected from the Advisory Committee
- ii. One (1) member thereof to be selected to be a Town Meeting Member of Precinct 15;
- iii. One (1) member thereof to be selected to be a Town Meeting Member of Precinct 16;
- iv. Three (3) members thereof to be selected to be Town Meeting Members at large from any of the remaining precincts; and
- v. Two (2) members thereof to be selected to be the incumbent Presidents of the Men's and Women's Divisions of the Brookline Golf Association.

The term of each appointed member to be for 3 years (staggered) and a majority of the Committee would constitute a quorum to conduct the business of the Committee and the members of the Committee are to serve without compensation.

The mission or purpose of this Committee would be to conduct, independently, an audit review of the activities, budgets, revenues and expenditures of the Enterprise Fund. To prepare and to file, periodically as deemed necessary, but no less than annually, a report of its findings. Such report shall include, but not necessarily limited to, a primary focus on the utilization and effectiveness of the recreational facilities and the recreational benefits to the residents and voters of the Town of Brookline.

The Committee may establish such rules for the conduct of the Committee's business that shall not conflict with any of the By-laws of the Town of Brookline or any of the applicable laws of the Commonwealth of Massachusetts.

All requests for information by the Committee shall be submitted, in writing, to the Department of Public Works, Park and Recreation Commission, the Recreation Department, the Town Treasurer, or other department or section of Town government deemed appropriate for the request and a reasonably prompt response is to be expected.

The Putterham Meadows Golf Club, is a public golf course owned and operated by the Town of Brookline under the auspices of the Brookline's Department of Public Works, its Division of Parks, its Park and Recreation Commission. Designed and built during the Great Depression and opened in 1933, it is one of the principal resources of the Town in providing recreational and related social activities to the residents of Brookline and their friends.

It has been and continues to be financially independent. For the past several years and pursuant to the establishment of an Enterprise Fund, a portion of the surplus revenue has been appropriated annually, current annual rate of appropriation at \$250,000.00, to the general treasury for the Town in reduction of the annual tax levy.

The "Satisfaction Guaranteed" policy, a long standing and well established policy directed to the residents of Brookline, published and to be administered by the Brookline Recreation Department has for years been stated and defined as follows:

"The Brookline Recreation Department's mission is to be a leading promoter of a sense of community, family and personal growth, physical fitness and enjoyment through high quality, affordable programs and services responsive to the needs of families and individuals in the Town of Brookline."

Until recently, the programs and services provided through the Brookline Golf Course, as enjoyed for many years by local residents, have substantially and significantly fulfilled this mission.

In light of the ever-increasing popularity of golf and the easy accessibility of the Putterham Meadows Golf Club to communities and visitors throughout the greater Boston area, it is appropriate at this time that the Town of Brookline take steps to ensure that the golf course continue in the future, as it has in the past, to provide a unique sense of "community, growth, fitness and enjoyment" for Brookline families and residents first.

The golf course is a major recreational facility as well as a major facility in terms of revenues and expenditures. The Enterprise Fund, its management and functions, are a significant factor in the continuation of recreational benefits to the residents of Brookline and therefore require reasonable independent oversight by the Town.

SELECTMEN'S RECOMMENDATION

The petitioned article would create the Enterprise Fund Advisory Committee to consist of nine members appointed by the Town Moderator. The purpose of the committee would be to conduct, independently, an audit review of activities, budgets, revenues, and expenditures of the Golf

Enterprise Fund. The goal of the article is to allow user input in regard to the activities of the Putterham Meadows Public Golf Course.

The Board of Selectmen and the Park and Recreation Commission share the petitioner's goal of creating a protocol for user advice on Golf Course Operations. The Recreation Director also believes in this goal and worked with the petitioner to develop procedures which would create such a process. The end result is the following Joint Resolution:

**BOARD OF SELECTMEN
and the
PARK AND RECREATION COMMISSION
JOINT RESOLUTION**

WHEREAS, Putterham Meadows Golf Course is an extremely valuable asset to the Town of Brookline; and

WHEREAS, the conduct of golf operations and maintenance of golf facilities are of immediate and direct importance to those who play there; and

WHEREAS, the Park and Recreation Commission has the fiduciary responsibility to oversee the Golf Course for the benefit of all the citizens while, at the same time, accommodating to the fullest extent possible the needs of those who play there;

NOW THEREFORE, the Board of Selectmen and the Park and Recreation Commission resolve jointly, that there shall be a Putterham Meadows Golf Course Advisory Committee. The Committee shall periodically review the activities, capital improvements and revenues of the Golf Course. The Committee shall advise the Park and Recreation Commission on all oversight matters relative to the above.

The Putterham Golf Course Advisory Committee shall be appointed by the Park and Recreation Commission and shall consist of seven resident members:

- ?? **Two members of the Park and Recreation Commission**
- ?? **Two resident golfers**
- ?? **Two members of the Brookline Golf Association (Presidents of the Men's and Women's Divisions)**
- ?? **One member of the Senior League**

The Chairman of the Putterham Meadows Golf Course Advisory Committee shall be chosen by a vote of at least four members of the Committee.

The Putterham Meadows Golf Course Advisory Committee shall report annually to the Board of Selectmen and the Park and Recreation Commission on the activities of the Committee for the prior year and also provide observations concerning current conditions and long-term requirements.

Approved by the Park and Recreation Commission on April 9 and by the Board of Selectmen on April 24, the Resolution creates the following:

1. A Putterham Meadows Golf Course Advisory Committee appointed by the Park and Recreation Commission.
2. A periodic review of the activities, capital improvements, and finances of the Golf Course.

3. An annual report to the Board of Selectmen on activities of the Committee for the prior year and also on observations concerning current conditions and long-term requirements.

As a result of this agreement, the petitioner has requested that the article be withdrawn. Therefore, the Board of Selectmen unanimously recommends NO ACTION on this article.

ADVISORY COMMITTEE'S RECOMMENDATION

RECOMMENDATION

The petitioners of Article 24, which proposed the establishment of a Golf Enterprise Fund Advisory Committee, have withdrawn the article. The Advisory Committee, by a nearly unanimous vote (one abstention) recommends NO ACTION.

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ARTICLE 25

TWENTY-FIFTH ARTICLE

That the Town Meeting, by its affirmative vote at the Annual Meeting, establish the PUTTERHAM MEADOWS GOLF CLUB ADVISORY COMMITTEE to consist of Nine (9) Members appointed by the Town Moderator with the make-up of the Committee to be as follows:

Two (2) members thereof to be selected from the Advisory Committee

One (1) member thereof to be selected to be a Town Meeting Member of Precinct 15;

One (1) member thereof to be selected to be a Town Meeting Member of Precinct 16;

Three (3) members thereof to be selected to be Town Meeting Members at large from any of the remaining precincts; and

Two (2) members thereof to be selected to be the incumbent Presidents of the Men's and Women's Divisions of the Brookline Golf Association.

The term of each appointed member to be for 3 years (staggered) and a majority of the Committee would constitute a quorum to conduct the business of the Committee and the members of the Committee are to serve without compensation.

The mission or purpose of this Committee would be to conduct, independently, a review of the activities and finances concerning the policies, improvements, revenues and expenditures of the Putterham Meadows Golf Club golf course. To prepare and to file, periodically as deemed necessary but not less than annually, a report of its findings. Such report shall include, but not necessarily limited to, a primary focus on the utilization and effectiveness of the golf course as a public recreational facility dedicated primarily for the recreational benefit of the residents and voters of the Town of Brookline. The review of the Committee to be an oversight only and to inform the appropriate legislative bodies of the Town of its findings.

The Committee may establish such rules for the conduct of the Committee's business that shall not conflict with any of the By-laws of the Town of Brookline or any of the applicable laws of the Commonwealth of Massachusetts.

All requests for information by the Committee shall be submitted, in writing, to the Department of Public Works, Park and Recreation Commission, the Recreation Department, the Town Treasurer, or other department or section of Town government deemed appropriate for the request and a reasonably prompt response is to be expected.

The Putterham Meadows Golf Club, is a public golf course owned and operated by the Town of Brookline under the auspices of the Brookline Department of Public Works, its Division of Parks, its Recreation Department and the Town's Park and Recreation Commission. Designed and built during the Great Depression and opened in 1933, it is one of the principal resources of the Town in providing recreational and related social activities to the residents of Brookline and their friends.

It has been and continues to be financially independent. For the past several years and pursuant to the establishment of an Enterprise Fund, a portion of the surplus revenue has been appropriated annually, current annual rate of appropriation at \$250,000.00, to the general treasury of the Town in reduction of the annual tax levy.

The "Satisfaction Guaranteed" policy, a long standing and well established policy directed to the residents of Brookline, published and to be administered by the Brookline Recreation Department has for years been stated and defined as follows:

"The Brookline Recreation Department's mission is to be a leading promoter of a sense of community, family and personal growth, physical fitness and enjoyment through high quality, affordable programs and services responsive to the needs of families and individuals in the Town of Brookline."

Until recently, the programs and services provided through the Brookline Golf Course, as enjoyed for many years by local residents, have substantially and significantly fulfilled this mission.

In light of the ever-increasing popularity of golf and the easy accessibility of the Putterham Meadows Golf Club to communities and visitors throughout the greater Boston area, it is appropriate at this time that the Town of Brookline take steps to ensure that the golf course continue in the future, as it has in the past, to provide a unique sense of "community, growth, fitness and enjoyment" for Brookline families and residents first.

The golf course is a major recreational facility as well as a major facility in terms of revenues and expenditures. The recreational and financial interests of the golf course must always be balanced to meet its recreational goals without losing sight of its financial stature in the Town.

The petitioned article would create the Putterham Meadows Golf Club Advisory Committee to consist of nine members appointed by the Town Moderator. The purpose of the committee would be to conduct, independently, an audit review of activities, budgets, revenues, and expenditures of the Golf Enterprise Fund. The goal of the article is to allow user input in regard to the activities of the Putterham Meadows Public Golf Course.

The Boars of Selectmen and the Park and Recreation Commission share the petitioner's goal of creating a protocol for user advice on Golf Course Operations. The Director of Parks and Recreation also believes in this goal and worked with the petitioner to develop procedures which would create such a process. The end result is the following Joint Resolution:

**BOARD OF SELECTMEN
and the
PARK AND RECREATION COMMISSION
JOINT RESOLUTION**

WHEREAS, Putterham Meadows Golf Course is an extremely valuable asset to the Town of Brookline; and

WHEREAS, the conduct of golf operations and maintenance of golf facilities are of immediate and direct importance to those who play there; and

WHEREAS, the Park and Recreation Commission has the fiduciary responsibility to oversee the Golf Course for the benefit of all the citizens while, at the same time, accommodating to the fullest extent possible the needs of those who play there;

NOW THEREFORE, the Board of Selectmen and the Park and Recreation Commission resolve jointly, that there shall be a Putterham Meadows Golf Course Advisory Committee. The Committee shall periodically review the activities, capital improvements and revenues of the Golf Course. The Committee shall advise the Park and Recreation Commission on all oversight matters relative to the above.

The Putterham Golf Course Advisory Committee shall be appointed by the Park and Recreation Commission and shall consist of seven resident members:

- ?? **Two members of the Park and Recreation Commission**
- ?? **Two resident golfers**
- ?? **Two members of the Brookline Golf Association (Presidents of the Men's and Women's Divisions)**
- ?? **One member of the Senior League**

The Chairman of the Putterham Meadows Golf Course Advisory Committee shall be chosen by a vote of at least four members of the Committee.

25-4

The Putterham Meadows Golf Course Advisory Committee shall report annually to the Board of Selectmen and the Park and Recreation Commission on the activities of the Committee for the prior year and also provide observations concerning current conditions and long-term requirements.

Approved by the Park and Recreation Commission on April 9 and by the Board of Selectmen on April 24, the Resolution creates the following:

1. A Putterham Meadows Golf Course Advisory Committee appointed by the Park and Recreation Commission.
2. A periodic review of the activities, capital improvements, and finances of the Golf Course.
3. An annual report to the Board of Selectmen on activities of the Committee for the prior year and also on observations concerning current conditions and long-term requirements.

As a result of this agreement, the petitioner has requested that the article be withdrawn. Therefore, the Board of Selectmen unanimously recommends NO ACTION on this article.

ADVISORY COMMITTEE'S RECOMMENDATION

RECOMMENDATION

The petitioners of Article 25, which proposed the establishment of a Putterham Meadows Golf Club Advisory Committee, have withdrawn the article. The Advisory Committee unanimously recommends NO ACTION.

XXX

ARTICLE 26

TWENTY-SIXTH ARTICLE

Reports of Town Officers and Committees

MODERATOR'S COMMITTEE UPDATE
Feasibility and Applicability of Tree Ordinance in Brookline

The Town of Brookline has always been a community of distinction. A large part of the character of this community has been its healthy and diverse Urban Forest. There is a clear distinction in your surroundings when you drive from a neighboring community into Brookline. This change in character is often defined by the presence of trees or tree canopies along the streets, parkways, and in parks and open spaces. In an effort to protect this important element of Brookline's character the Town Meeting Moderator has formed a committee to study the possible benefits of a tree protection ordinance as indicated on the Twenty-Fourth Article in the Warrant voted at the May, 2000 Annual Town Meeting.

The Twenty-Fourth Article in the Warrant called for a Moderator's Committee to study the requirements for and consider drafting a by-law, the purpose of which is to cause anyone who removes or causes to be removed a tree or trees, above a pre-determined threshold, to replace the tree(s) with other tree(s) whose combined diameter at least equals that of the removed tree(s), resulting in a "no-net loss" of trees provision.

The committee has held three meetings and one public meeting to discuss the purpose and benefit of a tree ordinance in the Town of Brookline. The public meeting was held on May 2^d to allow an opportunity for the public to provide input as to their thoughts and opinions regarding the viability of a tree ordinance in Brookline. The Committee has reviewed a wide range of categories of trees that could be protected including heritage trees, residential landscape trees, natural wooded areas and unique trees. The Town Tree Warden has created a flow chart that sets forth three general scenarios of tree protection, including one scenario when trees are only subject to protection during new development, a second scenario setting a specific diameter measurement to determine trees in need of protection, and a final scenario that refers to the protection of all existing trees based upon their benefits to the community.

In order to provide consideration and protection of trees considered significant to the health and character of the community, the Committee is considering the success and viability of existing tree ordinances in both the Commonwealth of Massachusetts and the Nation. The Committee is also evaluating the possible avenues for implementation, including the use of existing permitting and by-laws mechanisms within the Town.

The Committee is still considering the purpose and intent of a tree protection ordinance in Brookline, the respective applicability and jurisdiction, implementation and enforcement. The Committee is hoping to have a recommendation by the Spring 2002 Town Meeting.

Members of the Committee

Joe Geller, Chair Board of Selectmen (Committee Chair)

Erin Chute, Director of Parks and Open Space

Adam Kahn, Conservation Commission

Corliss Engle, Tree Planting Committee

Fred Perry, Greenspace Alliance

SELECTMEN SUB-COMMITTEE REPORT
ON
ARTICLE 14 OF THE FALL TOWN MEETING

Article 14 of the Special Town Meeting of November 14, 2000 sought to amend Section 5 of Chapter 270 of the Acts of 1985 (the Town Administrator Enabling Act) as follows:

"Section 5. The Town may, through its by-laws, delegate any licensing authority, given by law to its Board of Selectmen, to the Town Administrator or his or her designee."

The intent of the petitioners was to shift licensing administration away from the Selectmen, who by "spending less time on licensing can focus on more important issues."

The Board of Selectmen unanimously recommended NO ACTION on Article 14 with referral of the item to a committee to be established by the Board. The Advisory Committee vote also recommended NO ACTION. Town Meeting unanimously voted NO ACTION, with the expectation of further review.

At its meeting of January 23, 2001, the Board requested that Selectmen Gilbert Hoy and Robert Allen serve as a Sub-Committee to review the proposal in Article 14. Town Administrator Richard Kelliher was to provide staff support. The Sub-Committee first met on February 14, 2001. At that time they developed the scope of the study to be undertaken and established a schedule for its completion. It was agreed that the study would entail:

- ?? Review of prior reports, including the 1984 CTO&S Report; the 1988 Report of the Selectmen's Sub-Committee on Liquor Licensing; and the 1997 League of Women Voters Study.
- ?? Consultation with an external authority on municipal licensing functions.
- ?? Interview of Selectmen's Office staff who process licensing activities.

THE FINDINGS OF THE SUB-COMMITTEE ARE AS FOLLOWS:

Review of Prior Reports

None of the three studies conducted over the past two decades recommended changing the traditional practice by which the Board of Selectmen serves as the licensing board for the Town. The 1984 CTO&S study was conducted as part of its overall Report on establishing the Town Administrator Enabling Act. The Report did propose, and the Act did include, the recommendation that the Town Administrator handle routine licenses such as second hand articles and block parties. However, the licensing of Innholders, Lodging Houses, Common Victuallers, Open Air Parking, Food Vendors, Second Hand Motor Vehicles, Liquor Sales, and Entertainment were explicitly retained by the Selectmen in the Enabling Act.

The 1988 Report on Liquor Licensing resulted in explicit guidelines for the Board in the regulation of the distribution, sale, and consumption of alcoholic beverages. These guidelines remain in effect today for the Board's consideration. This Report never explicitly addressed the question whether the Selectmen should delegate licensing functions. It was considered a "given" by the Selectmen at that time that the Selectmen would continue in the role of licensing board due to the fact that this responsibility was just reaffirmed months earlier in the Enabling Act. If anything, the Report, through its formulation of guidelines for new applications, disciplinary action, transfers, and other criteria, actually solidified the role of the Selectmen in this area.

In 1997, the Brookline League of Women Voters studied the licensing functions of the Board of Selectmen. The League's study did not result in a final published report. LWV members devoted extensive time to interviewing current and past Selectmen, department heads, citizens, and merchants. Because a report was never released, the draft conclusions can not be published here.

However, a survey of comparable towns conducted at that time by the LWV is still quite relevant. We have reviewed the data (attached) and have found that it is virtually unchanged. The data confirms that among towns (as opposed to cities) with fewer than 1,000 licenses, the Selectmen serve as licensing Board in virtually every instance. (Since the LWV study was conducted in 1997, Weymouth has become a City and Framingham has delegated one-day liquor licenses to the Town Administrator.)

Outside Consultation

To provide perspective for the Brookline experience, the Sub-Committee met on March 23, 2001 with the Chairperson of the statewide Municipal Licensing Group. The Group is an informal association of local licensing officials who meet periodically to discuss common problems and share ideas about licensing. The Chairperson is Richard Scali whose full time professional capacity is to serve as Executive Officer of the Cambridge License Commission.

Although Mr. Scali expressed an immediate predisposition in his meeting with the Sub-Committee favoring the commission model, he did not urge Brookline to pursue this option. Among the reasons discussed were:

- ?? Volume - The City of Cambridge administers approximately 2,500 licenses. The Town of Brookline handles approximately 600. The volume of licenses here does not give rise to concern about an unmanageable workload.
- ?? Cost - The budget for the Cambridge Licensing Commission is approximately \$700,000 annually. In addition to the Executive Officer and support staff, the Commission also employs investigators and other specialists. While it is not suggested that delegation by the Selectmen would necessarily result in this level of budget, there is little doubt that there would be additional cost. Stipends for commissioners, allocation of resources to an additional set of meetings, and increased staffing to handle communication and other tasks currently performed by Selectmen would most likely cause a budget increase according to the Town

Administrator. For example, when Weymouth recently established a licensing board due to its charter change, it resulted in the addition of another position to the budget.

?? Loss of Connectivity - As was the case 20 years ago, there is a belief that the displacement of the Selectmen from this function by an administrative authority would disconnect citizens from the chief elected officials on matters that are often very "close to home." City Councilors in Cambridge testify before that City's Commission just as any other citizens do. Political access is obviously truncated in such circumstances. While that model might be entirely appropriate for some communities, it might be ill-advised in others, such as Brookline.

Staff Interviews

The Town Administrator made clear to the Sub-Committee that, while he would carry out whatever responsibilities delegated to him, he would not recommend at this time that Article 14 be adopted. He expressed the opinion that the Selectmen's utilization of personnel from the Police, Building, Health, and Fire Departments to examine and report on licensing matters is actually a quite cost effective use of resources. Further, as noted above, he observed that there most likely would be additional cost associated with delegation. Also, he has not observed that the hours required by the Selectmen in formal session for licensing functions has diverted the Board from other executive responsibilities. The most time consuming sessions involve complaints and violations. These were anticipated to be appealable to the Selectmen under Article 14 anyway, necessitating Selectmen involvement in these more time consuming matters even if Article 14 were adopted.

The Sub-Committee reviewed licensing processing requirements with Senior Clerk Secretary Brenda Costello who is assigned that responsibility in the Selectmen's Office. She indicated that the current system affords the opportunity for immediate staff communication with the Board about sensitive and/or complex issues. Further, she is able to coordinate the involvement of Town Departments in a timely fashion. And finally, because of the network of support within the office, among the departments, and from the Selectmen themselves, the volume of work is manageable even in peak periods.

Conclusion

While no system is perfect, we believe that, on balance, the current arrangement for administering licenses should continue. It is our opinion that the postulated benefits of change -- time savings for Selectmen; exclusive assignment of staff; insulation from the taint of politics -- are likely far outweighed by the costs of budget increases and diminished citizen influence. Further, the possible time savings for the Board could be quite minimal, if it were to continue to be involved as an appellate body.

Overall, our observation is that the existing system works well with extraordinarily few complaints from residents, town employees, and licensees. Respectfully then, we recommend no further action on Article 14.

Selectman Gilbert R. Hoy, Jr.

Selectman Robert L. Allen

1997 LWV REPORT
(UPDATED)

<u>TOWN</u>	<u>POPULATION</u> <u>1998</u>	<u>#LICENSES</u> <u>+/-</u>	<u>APPROVAL</u>
ARLINGTON	43,431	250	SELECTMEN
BROOKLINE	53,911	600	SELECTMEN
DEDHAM	23,721	300	SELECTMEN
FRAMINGHAM	64,646	800	SELECTMEN
LEXINGTON	29,594	300	SELECTMEN
NATICK	31,491	185	SELECTMEN
NEEDHAM	27,924	150	SELECTMEN
PROVINCETOWN	3,743	1,000	LICENSE BD & AGENT
WATERTOWN (City known as Town)	32,435	350	LICENSE BOARD
WELLESLEY	26,789	150	SELECTMEN
WEYMOUTH (City)	54,903	600	LICENSE BOARD
WINCHESTER	20,339	62	SELECTMEN

Moderator's Committee on Leaf Blowers
Report on Article 15
prepared for the 2001 Annual Town Meeting

Last spring, Article 15 proposed to amend the Town's Noise Control By-law by reducing the permissible noise levels for leaf blowers and limiting the days and hours of their operation. That article was referred to a Moderator's Committee for study, with a report to be made to the Spring 2001 Town Meeting. The Committee, consisting of Carla Benka, Advisory Committee; Frances Shedd Fisher, TMM, Pct 5; Jerome Sadow, lead petitioner; and Peter Sellers, Director of Highways, was formed in August. It was joined in its meetings by Alan Balsam, Director of Health and Human Services, who acted in an *ex officio* capacity.

The Committee met throughout the fall and winter, researching and discussing:

(1) Decibel levels of gas powered leaf blowers currently on the market as well as the availability and cost of quieter equipment;

(2) Enforcement of the current Noise Control By-law, including recommendations from the Police Department;

(3) Noise Control By-laws in other communities, including Cambridge, Arlington, Watertown, Newton, Needham, Wellesley, and Lexington; and

(4) The impact of restricting the days and hours of operation on property owners and on the Department of Public Works.

In addition, in an effort to obtain information regarding the use of leaf blowers by private landscape maintenance firms, the Committee composed and mailed a questionnaire to over 25 landscape maintenance businesses with clients in Brookline, asking for facts which would help committee members better understand the business operations and needs of these companies.

Although the Moderator's Committee is more knowledgeable regarding leaf blowers and their use in the Town, it does not believe that it has completed its assignment. In the coming months, it will draft a series of recommendations to present at a public meeting to interested parties. These would include:

(1) further restricting the hours of leaf blower use to 8 a.m. to 6 p.m. on weekdays and 9 a.m. - 5 p.m. on weekends, rather than the currently permissible 8 a.m. to 9 p.m. any day;

(2) requiring that equipment with a decibel level of 72, rather than the current level of 80, be phased in over a three year period;

(3) imposing a \$50 fine with subsequent increases for repeat offenses, rather than an amount not to exceed \$50; and

(4) increasing efforts to publicize the by-law provisions.

The Committee's final report will be submitted to a future Town Meeting.