

**NOVEMBER 16, 2004 SPECIAL TOWN MEETING  
INDEX OF WARRANT ARTICLES**

1. Approval of unpaid bills. (Selectmen)
2. Approval of collective bargaining agreements. (Human Resources Board)
3. FY2005 Budget Amendments. (Selectmen)
4. Amendment to Town By-Laws - - establish a new By-Law creating the Information Technology Department. (Selectmen)
5. Amendment to Town By-Laws - - removing fee schedules of certain departments. (Town Counsel)
6. Amendment to Article 8.17 of the Town By-Laws – Focused Residence Picketing. (Selectmen)
7. Amendment to Town By-Laws - - establish Article 7.12 – Undergrounding Utilities. (Underground Wires Committee)
8. Amendment to Article 8.16 of the Town By-Laws – Recycling Waste Materials - - require all Brookline residents to recycle. (Solid Waste Advisory Committee)
9. Amendment to Article 3.8 of the Town By-Laws – Building Department - - new section requiring the Building Department to provide homeowners with an information bulletin on the Home Improvement Contractor Law (HICL). (Petition of Scott Gladstone)
10. Amendment to Article 5.6 of the Town By-Laws – Preservation Commission and Historic Districts - - creation of the Graftam-McKay Local Historic District. (Preservation Commission)
11. Authorize a Land Lease at the Walnut Hills Cemetery for a Telecommunications Antenna. (Police Chief and Fire Chief)
12. Discontinuance of a Portion of Reservoir Road. (Department of Public Works)
13. Acceptance of Massachusetts General Laws, Chapter 41, Section 81A - - establish an elected Planning Board. (Petition of Gary Jones)
14. Legislation to Offer Incentives to the Owners of Two- and Three-Family Dwellings to Rent Units to Low- or Moderate-Income Households. (Petition of Linda Dean and Martin Rosenthal)

15. Legislation to Establish a Public Safety Injured on Duty (IOD) Medical Expenses Trust Fund. (Finance Department)
16. Amendment to Section 4.07 of the Zoning By-Law – Table of Use Regulations - - amend Principal Use 6. (Department of Planning and Community Development)
17. Amendment to Section 4.07 of the Zoning By-Law – Table of Use Regulations - - amend Principal Use 33A. (Department of Planning and Community Development)
18. Amendments to Section 4.08 of the Zoning By-Law – Affordable Housing - - required affordable units. (Department of Planning and Community Development)
19. Amendment to the Zoning By-Law - - Establishment of a New Section 3.03 – Interim Planning Overlay District. (Department of Planning and Community Development)
20. Amendments to the Zoning By-Law with Respect to the Zoning Map. (Petition of Richard Benka)
21. Resolution Supporting the Overhaul of the Two-Hour Parking Ban, with Targeted and Codified Priorities. (Petition of Martin Rosenthal)
22. Resolution to Encourage Parents and Caregivers of Children to Refrain from the Use of Corporal Punishment. (Petition of Ronald Goldman)
23. Dedication of a Memorial Sign at Thorndike and Harvard Streets in Memory of Maxwell Adler. (Veterans Services)
24. To Name the Playground Now Known as Coolidge Park the Judge Sumner Z. Kaplan Playground and Park. (Petition of Thomas Robinson)
25. Reports of Town Officers and Committees. (Selectmen)

WARRANT  
THE COMMONWEALTH OF MASSACHUSETTS  
TOWN OF BROOKLINE  
SPECIAL TOWN MEETING

Norfolk, ss

To Any Constable of the Town of Brookline,

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to NOTIFY and WARN the Inhabitants of the TOWN OF BROOKLINE, qualified to vote at elections to meet at the High School Auditorium in said Brookline on TUESDAY, the SIXTEENTH day of NOVEMBER, 2004, at 7:00 o'clock in the evening for a Special Town Meeting at which time and place the following articles are to be acted upon and determined by the representative town meeting:

**ARTICLE 1**

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.

**ARTICLE 2**

To see if the Town will raise and appropriate, or appropriate from available funds, a sum or sums of money to fund the FY2004 and/or FY2005 cost items in collective bargaining agreements between the Town and various employee unions; fund wage and salary increases for employees not included in the collective bargaining agreements; and amend the Classification and Pay Plans of the Town; or act on anything relative thereto.

**ARTICLE 3**

To see if the Town will:

- A) Appropriate additional funds to and from and adjust the various accounts in the fiscal year 2005 budget or transfer funds between said accounts;
- B) Appropriate \$568,739, 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, utilizing so-called Chapter 90 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 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.

**ARTICLE 4**

To see if the Town will amend the Town By-Laws by amending ARTICLE 3.11 to 3.11A and by inserting a new Article 3.11B to read as follows:

**ARTICLE 3.11B  
INFORMATION TECHNOLOGY DEPARTMENT**

**SECTION 3.11B.1 ESTABLISHMENT**

The Information Technology Department, hereinafter referred to as the Department, is hereby established. The Department is responsible for the integration of all activities and resources designated as: 1. systems and data processing, comprised of computer-based systems design and implementation, applications, and operating software; 2. telecommunications systems and networks, comprised of the integration of planning, development, and implementation of all systems and network services; 3. delivery of applications and other information services products that meet the users' specifications in terms of quality and cost; 4. protection of the Town's computer data and information assets and resources; 5. identification of opportunities in the development and support of new and existing technologies; 6. training of employees in the use of various aspects of information technology; and 7. formulation of an annual Information Technology Capital Plan as part of the Capital Improvements Program (CIP).

**SECTION 3.11B.2 PURPOSE**

It is the intent and purpose of this By-Law to establish a department whose mission it is to assure that technology is used to enhance the delivery of town and school services and information to the community. The Department will work to attain efficiencies and economies of scale; reduce or eliminate duplication and overlapping of services, responsibilities, and functions; improve the coordination of planning for the use of technology between and among various town departments; and manage the implementation of all technology-related projects.

**SECTION 3.11B.3 CHIEF INFORMATION OFFICER**

(A) Appointment & Term of Office. There shall be a Chief Information Officer, hereinafter referred to as the "CIO", recommended by the Town Administrator in consultation

with the Superintendent of Schools for appointment by the Board of Selectmen in accordance with the provisions in Chapter 270 of the Acts of 1985. The appointment shall be made annually for a term of one year, commencing July 1 of each year and continuing until the appointment and qualification of a successor.

(B) Qualifications. The CIO shall be a person especially fitted by education, training and experience to perform the duties and exercise the powers of the office.

(C) Powers & Duties. The CIO shall be responsible for the effective management, administration and coordination of all operations within the Department including financial affairs and the management, administration and control of all personnel assigned to the Department. The CIO shall review and approve hardware and software purchases for all Town departments. The CIO shall appoint and may remove all other personnel within the Department.

#### SECTION 3.11B.4 INFORMATION TECHNOLOGY ADVISORY COMMITTEE

The Board of Selectmen shall appoint three residents to serve on the Information Technology Advisory Committee, hereafter referred to as the "ITAC", for three-year staggered terms. The ITAC shall be responsible for providing community input to IT decision making, periodically reviewing the IT Strategic Plan including annual updates, and evaluating lessons learned from major IT initiatives. The ITAC shall meet quarterly, and at other times deemed necessary by the CIO and / or the Chairman of the ITAC.

#### SECTION 3.11B.5 INTERDEPARTMENTAL INFORMATION TECHNOLOGY COMMITTEE

The CIO shall form an Interdepartmental Information Technology Committee, consisting of representatives from town and school departments that use information technology. The Committee will be responsible for fostering cross-departmental collaboration, promoting multilateral communication relating to IT issues among departments, and reviewing all proposed IT capital projects, thereby ensuring that an enterprise-wide approach to technology is undertaken, duplication of services and/or systems is eliminated, and the purchase of incompatible systems is avoided. The Committee shall meet at the discretion of the CIO.

or act on anything relative thereto.

### **ARTICLE 5**

To see if the Town will amend the town's By-Laws by deleting the following Sections:

SECTION 3.4.5 SCHEDULE OF FEES for the  
Office of the Town Clerk.

SECTION 3.8.3 BUILDING DEPARTMENT FEES

and by renumbering SECTION 3.4.6 in Article 3.4 to SECTION 3.4.5, or act on anything relative thereto.

**ARTICLE 6**

To see if the Town will amend Article 8.17 in the town’s By-Laws, entitled: “FOCUSED RESIDENCE PICKETING” as follows:

- a. by deleting the last sentence that reads:  
“This by-law shall expire on January 1, 2005.”;
- b. by amending the word “picketing” as it appears in the by-law;
- c. by amending the words “taking place in front of or about” or “taking place solely in front of or about” as they appear in the by-law;
- d. by amending the words “a particular residence” as they appear in the by-law;
- e. by otherwise amending the language of the by-law; or
- f. by any combination of the foregoing;

or act on anything relative thereto.

**ARTICLE 7**

To see if the Town will amend the Town By-Laws by adding a new ARTICLE 7.12, to read as follows:

ARTICLE 7.12  
UNDERGROUND UTILITIES

SECTION 7.12.1 PURPOSE

This Underground Utilities By-Law is subject to the provisions of General Laws, Chapter 166, Section 22A – 22N, and regulates or prohibits the new construction of overhead wires and structures and/or requiring the removal of overhead wires and structures and replacement with underground conduit on public ways throughout Brookline.

SECTION 7.12.2 DEFINITIONS

For the purposes of this Article, the definitions cited in Section 22A in Chapter 166 of the General Laws (G.L.) shall apply in addition to the following.

- a) **Alternative Coordination Plan** – A plan to coordinate the implementation of the utility specific plans required by this underground By-Law. In the event that the utilities and the Town are not able to reach agreement on any aspects of a negotiated project coordination

plan, the Town will use reasonable discretion to establish an alternative coordination plan. The objective of this alternative coordination plan will be to use a single qualified general contractor to perform the excavation and civil work necessary for the installation of all of the underground facilities, including cable facilities, electric facilities, telephone facilities and municipal facilities, contemplated by this underground By-Law, as well as a proposed formula for apportioning the cost of that qualified general contractor. This alternative project coordination plan will assume that each utility will directly install and energize its own cable and wire in the conduits and manholes constructed by the qualified general contractor. In establishing such alternative coordination plan, the Town shall be guided by the objective of achieving efficient coordination among the utilities, a cost effective underground project, with the minimum disruption of the public way.

- b) **Company Specifications** – Detailed specifications provided by each utility regarding the number and size of duct banks, the type and quantity of cable or wire, and the number and precise specifications of manholes and hand holes, the description of and quantification of the equipment necessary to construct and install customer’s service facilities, and all other specifications regarding all other facilities necessary to replace overhead service in the Town, with underground services, all prepared in sufficient detail to be included in a request for bid from a qualified general contractor.
  
- c) **Cost Per Linear Foot** – When reporting the cost of demolition or construction per linear foot, the cost should be reported per linear foot of the overhead or underground system. For example, the 1,000 feet of overhead or underground facilities that are located on 1,000 feet of one side of a public way would be reported as 1,000 feet of overhead facilities or underground facilities removed or constructed. If a particular utility has two lines or two conduits on a given set of poles or in a given duct bank, and therefore 2,000 feet of overhead wire or underground wire in this 1,000 foot span of the public way, the cost per linear foot must be reported using the 1,000 feet of the public way as the denominator, and must not be reported using the 2,000 feet of wires as the denominator.
  
- d) **Customer Service Facilities** – The facilities required to connect a customer’s building or structure to the underground services mandated by this By-Law, which customer’s service facilities are more specifically defined in Section 22I in G.L., Chapter 166.
  
- e) **Direct Cost of Demolition and Construction** – The direct cost of construction labor, construction materials and construction equipment to implement the demolition and construction mandated by this By-Law. This shall include the direct cost of construction labor, construction materials, and construction equipment used to install the customer’s service facilities. Direct costs of demolition and construction shall also include the following costs: (A) the direct cost of completing and “Existing Conditions Plan”, to the extent such cost is incurred at the request of the Town in order expedite said schedule, and then reimbursed by the utility; (B) interest on any amounts spent for such direct costs in excess of the required 2% annual expenditure, to the extent such excess expenditure is directly associated with an effort to expedite the actual construction schedule at the

request of the Town; (C) the direct cost of any communication ducts installed at the request of the Town, which communication ducts are to be reserved municipal use.

f) **Petition** – The petition, timely filed, that is required by Section 22D in G.L., Chapter 166, relating to the permission to install underground facilities mandated by this By-Law. Such petition shall request permission for the shared common duct banks trenches by and among other utilities and the Town, or include a justification explaining why such shared use of common duct banks and common trenches is not possible.

g) **Plan for Continuation of its Service, for their Replacement with Underground Facilities** – The plan, timely filed, that is required by Section 22D in G.L., Chapter 166, relating to the removal of that particular utility’s overhead

wires and associated overhead equipment and the construction of a particular utility’s underground service facility to provide service to its consumers. This utility specific plan that meets the requirements of this By-Law must include, at a minimum, the following components:

- 1) The company’s specifications for the underground project
- 2) An estimate of the total direct cost of demolition and construction of the project which includes the cost of installing customer’s service facilities
- 3) An estimate of the total salvage value of the overhead property to be removed
- 4) A statement of the total company revenues received in the community in the proceeding calendar year, and an estimate of the total company revenues to be received in the community in the current year
- 5) As estimate of the total duration of the demolition and construction project assuming that the company allocates and expends 2% of such annual revenues (plus the reasonable salvage value of the removed overhead equipment ) to the direct cost of demolition and construction of that company’s project
- 6) A proposed coordination plan that describes a plan for utilizing a single qualified general contractor to perform the excavation and civil work necessary for the installation of all of the underground facilities, including cable facilities, electric facilities, telephone facilities and municipal facilities, contemplated by this underground By-Law as well as a proposed formula for apportioning the cost of that qualified general contractor among the various users of the underground facilities constructed
- 7) A statement that the utility will participate in good faith in a negotiation conducted by the Town, that includes all of the utilities covered by this By-Law, in which the Town attempts to develop a negotiated coordinated plan is acceptable to each utility and to the Town
- 8) A statement that the company’s plan will be implemented in a fashion that complies with any alternative coordination plan that may be established by the Town

Such plan must be filed no later than December of the calendar year prior to the calendar year in which the first expenditures for the direct cost of demolition and construction are required to be made.

- h) Negotiated Project Coordinated Plan** - The Town will review the coordination plans that are included in the cable company plan, electric company plan, and telephone company plan filed with the Board of Selectmen pursuant to this By-Law. The Town will host a project coordination meeting to be attended by representatives of the Town and each of said utilities, and use reasonable efforts to negotiate a project coordination plan that is acceptable to each of said utilities and the Town. The objective of this negotiated coordination plan will be to use a single qualified general contractor to perform the excavation and civil work necessary for the installation of all of the underground facilities, including cable facilities, electric facilities, telephone facilities, and municipal facilities, contemplated by this underground By-Law, as well as a proposed formula for apportioning the cost of that qualified general contractor. This negotiated project coordination plan will assume that each utility will directly install and energize its own cable and wire in the conduits and manholes constructed by the qualified general contractor. In negotiating such coordination plan, the Town shall be guided by the objective of achieving efficient coordination among the utilities, a cost effective project, with minimum disruption of the public way.
- i) Qualified General Contractor** – A contractor appropriately licensed, insured and bonded with extensive experience in designing and constructing underground utilities in Massachusetts, as evidenced by letters of recommendation from Massachusetts utilities that have contracted for the services of such qualified general contractor in the past.
- j) Statement** – Annual statement, timely filed, that is required by Section 22D in G.L., Chapter 166. This annual statement must, at a minimum, include the following information regarding the removal of overhead facilities and construction of replacement underground facilities, completed by said utility in the prior calendar year:
- 1) Linear feet of overhead facilities removed  
Street names on which such removal occurred  
Direct cost of demolition associated with such removal for the calendar year in question  
Direct cost of demolition associated with such removal per linear foot of overhead facilities removed
  - 2) Linear feet of underground facilities constructed  
Street names on which underground construction occurred  
Direct cost of construction for the calendar year in question  
Direct cost of construction per linear foot of such construction completed
  - 3) Number of customer service facilities completed  
Street names on which customer service facilities occurred  
Direct cost of construction associated with customer service facilities demolition and construction spent in any year prior to the preceding calendar year, which amount was in excess of the 2% of the standard defined in Section 22D of G.L., Chapter 166 and which excess amount the utility is allocating as a

credit to reduce the dollar expenditures required by this By-Law for the direct cost of demolition and construction in the calendar year that is the focus of this financial report

- 4) The dollar amount of the direct cost of demolition and construction spent in any year prior to the preceding calendar year, which amount was in excess of the 2% of the standard defined in Section 22D of G.L., Chapter 166 and which excess amount the utility is allocating as a credit to reduce the dollar expenditures required by this By-Law for the direct cost of demolition and construction in the calendar year that is the focus of this financial report
- 5) Gross revenues derived from that utility's customers in Brookline in the calendar year preceding the expenditures reported in items 1,2 and 3 above. Representation that the amounts spent by such utility for the direct cost of demolition and construction, as itemized above, in items 1,2 and 3 plus any credit as described in item 4, equals or exceeds the 2% of the gross revenue report in 5) above

#### SECTION 7.12.3 PROHIBITING INSTALLATION OF NEW POLES AND OVERHEAD WIRES

No utility shall install or construct, except by way of replacement or upgrading of existing facilities, any poles and overhead wires and associated overhead structures upon, along or across any public way within the Town. Any poles and overhead structures and associated overhead structures installed or constructed in violation of this By-Law shall be immediately removed by the utility responsible therefore.

Any person who installs or constructs any poles and overhead wires and associated overhead structures in violation of any such By-Law shall be punished by a fine of not less than one thousand dollars and not more than five thousand dollars. Any person who fails to remove immediately any poles and overhead wires and associated overhead structures in violation of any such By-Law shall be punished by a fine of not less than one thousand dollars and not more than five thousand dollars for each consecutive fifteen day period during which his failure continues.

#### SECTION 7.12.4 REMOVAL OF EXISTING POLES AND OVERHEAD WIRES

Any utility presently owning or operating poles and overhead wires and associated overhead structures along or across any public way within the Town shall begin to remove such poles and overhead wires and associated overhead structures following the effective date of this By-Law in accordance with G.L., Chapter 166, Section 22D.

#### SECTION 7.12.5 INSTALLATION OF CUSTOMER'S SERVICE FACILITIES

Any utility providing underground replacement facilities pursuant to this By-Law, shall also install customer's service facilities as defined in Section 22I in G.L., Chapter 166. Such installation of customer's service facilities shall be incorporated into the plan filed with the Board of Selectmen pursuant to this By-Law and the cost associated with such installation of customer's service facilities shall be included in the report of direct cost of demolition and construction reported to the Board of Selectmen pursuant to Section 22D (d).

#### SECTION 7.12.6 SEVERABILITY

If any provision of this By-Law is determined to be invalid, such determination shall not affect the validity of the other provisions of this By-Law, which other provisions shall remain in full force and effect.

#### SECTION 7.12.7 EXEMPTION OF LOW-INCOME HOUSEHOLDS FROM SURCHARGE ON ELECTRICAL BILLS

The Town shall direct the electric utility company to exempt households from the surcharge on utility bills that qualify for a discount on electrical bills on the basis of a program mandated by the Massachusetts Legislature such as Section 193(1F)(4)(i) of the Electric Restructuring Act ("Act"), Chapter 164 of the Acts of 1997.

#### SECTION 7.12.8 UNDERGROUND WIRING COMMITTEE

##### a) Establishment

There is hereby established a standing Underground Wiring Committee, consisting of five (5) voting members. Members are to be appointed by the Board of Selectmen. The selectmen shall initially appoint two members for terms of one year, two for terms of two years and one for a term of three years from the first Monday of May. Thereinafter as the term of office of any member expires the selectmen shall annually, before the first Monday of May, appoint his/her successor for a term of three years. Any vacancy on the committee shall be filled by appointment by the selectmen for the remainder of the unexpired term.

##### b) Duties

(1) The Underground Wiring Committee shall, at least annually, review the status of the program, review progress on projects that are underway, and make recommendations to the Board of Selectmen regarding the sequencing of future projects. The committee shall consult with existing municipal boards, including the Planning Board, and the Tree Committee, and the Department of Public Works in developing recommendations for future projects. As part of its consideration of the sequencing of projects, the committee shall hold one or more public informational hearings on the benefits, costs, and obstacles associated with the burying of wires in various sections of the town. Meetings of the committee shall be called by the chairman in his motion, or on the request of two or more members. Notice of the hearing shall be posted publicly and

published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

(2) The Underground Wiring Committee shall monitor the spending of funds collected by utilities through the surcharge on utility bills to assure the financial integrity of the program. In carrying out this responsibility, the Committee shall consult with the Department of Public Works and other appropriate Town personnel. The Committee shall report annually to the Board of Selectmen regarding the financial status of the program.

(3) The Underground Wiring Committee shall assure attention to neighborhood concerns in the planning and implementation of projects to bury wires. In carrying out this responsibility, the Committee will work with the Department of Public Works. The Committee will assure that abutters are informed of proposed projects and that public hearings be held to provide abutters with the opportunity to participate in the planning process.

(4) The Underground Wiring Committee shall monitor the adequacy of provisions to exempt low income households from participating in the financing of the program including the Town's efforts to inform low-income households of opportunities to obtain an exemption. The Committee may also recommend modified measures to exempt low-income households that may be appropriate.

(5) The Underground Wiring Committee shall assure the protection of tree roots in the planning and implementation of projects. In carrying out this responsibility, the Committee will monitor projects to assure that the Town's tree warden is regularly consulted regarding the location of trenches for conduits.

(6) The Underground Wiring Committee may seek sources of financing other than the surcharge on utility bills to accelerate the pace of the program.

(7) The Underground Wiring Committee may facilitate efforts of neighborhood groups to persuade utility companies to eliminate poles on private property.

c) Requirement for a quorum

The Underground Wiring Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the members of the Committee shall constitute a quorum. The Underground Wiring Committee shall approve its actions by a majority vote of the members in attendance at a meeting.

d) Termination

The Underground Wiring Committee shall cease to exist when the program to eliminate utility poles and bury wires throughout Brookline is complete; or act on anything relative thereto.

**ARTICLE 8**

To see if the Town will amend Article 8.16 in the Town's By-Laws to read as follows:

ARTICLE 8.16  
COLLECTION AND RECYCLING OF WASTE MATERIALS

SECTION 8.16.1 PURPOSE

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

SECTION 8.16.2 SCOPE

This By-Law and the regulations adopted hereunder shall govern and control all aspects of the collection, storage, transportation and removal of solid waste and recyclable materials in the Town. The requirements in 8.16, and in the regulations adopted hereunder, are applicable to all owners and occupants of all property in the Town, including, without limiting the foregoing, owners and occupants of all residential units whose waste is collected as a Town service or by a permitted private hauler; all property managers acting on behalf of owners or occupants of residential units; all owners and occupants of commercial facilities whose waste is collected as a Town service; and all haulers permitted to collect municipal waste and recyclables in the Town.

SECTION 8.16.3 RULES AND REGULATIONS

The Board of Selectmen may adopt regulations governing the collection, storage, transportation and removal of solid waste and shall adopt regulations to implement a recycling program in the Town. The regulations adopted by the Board may be amended, from time to time, and may add other categories of waste materials to be separated and recycled, as the Town develops programs and the capacity to collect and recycle new categories of waste materials. Prior to the adoption or amendment of any such regulations the Board of Selectmen shall hold a public hearing thereon, notice of the time, place and subject matter of which, sufficient for identification, shall be given by publishing such notice in a newspaper of general circulation in the town once in each of two successive weeks the first publication to be not less than fourteen days prior to the date set for such hearing or by the posting of such notice on the town's bulletin board in the Town Hall not less than fourteen days prior to the date set for such hearing.

SECTION 8.16.4 SEPARATION OF WASTE MATERIALS

In order to implement recycling in conjunction with the Town's solid waste collection programs, owners, residents, and occupants of every household, residential unit, commercial facility or other building, whose waste is collected as a Town service or by a permitted hauler, shall

separate for collection, in the manner set forth in this By-Law and the regulations adopted hereunder, the categories of waste materials defined as Recyclable Materials in the Town of Brookline Solid Waste Regulations.

SECTION 8.16.5                   MANDATORY SYSTEMS FOR COLLECTION,  
STORAGE AND REMOVAL OF RECYCLABLES IN  
RESIDENTIAL BUILDINGS

All owners, landlords and property managers of residential buildings shall set up systems for the collection, storage, and removal of recyclables generated by the occupants and residents in their buildings, in accordance with the regulations adopted hereunder.

SECTION 8.16.6                   PERMITTED HAULERS TO COMPLY WITH ALL  
REGULATIONS AND TO PROVIDE RECYCLING REMOVAL  
SERVICES FOR RESIDENTIAL PROPERTIES

Every permitted solid waste hauler, as a precondition to receiving a permit to collect solid waste within the Town of Brookline, shall be required to comply with Article 8.16, and the regulations adopted hereunder, and all Department of Public Works and Brookline Health Department regulations for the storage, collection and removal of solid waste and recyclables. Every permitted hauler shall be required to provide its residential customers with the services of collecting and properly disposing of recyclables.

SECTION 8.16.7                   UN-SEPARATED WASTE MATERIAL

If solid waste (a) is not separated for recycling as required herein and in the regulations promulgated hereunder; or (b) is not separated for recycling, as described in (a) above, and is put out for waste collection; or (c) is not separated for recycling, as described in (a) above, is put out for waste collection and is not collected by the town or a permitted hauler, the owner, manager and occupants of the property (the Property) shall be individually and collectively responsible for removing that solid waste from on or about the public or private way, within twelve (12) hours after the scheduled collection time for such solid waste, and storing it on the Property in a sanitary and safe manner, until it is separated for recycling and removed by the town or a permitted hauler. The owner, manager or occupants of the Property responsible for any one or more of the conditions described in (a) or (b) or (c) above, shall be subject to the enforcement provisions in Article 10.2 and the non-criminal disposition provisions in Article 10.3. Each day any one the conditions described in (a) or (b) or (c) continues shall constitute a separate violation.

SECTION 8.16.8                   UNAUTHORIZED REMOVAL OF WASTE  
MATERIALS

No person, except those authorized by the Board of Selectmen, shall remove or otherwise disturb waste materials or recyclables placed for collection by the town or a permitted hauler, near or within a street, a public way or a private way, including, without limiting the foregoing, materials placed for collection as a part of the town's recycling program.;

or act on anything relative thereto.

**ARTICLE 9**

To see if the Town will amend the Town By- Laws to insert a new Section 3.8.4 as follows:

**SECTION 3.8.4 INFORMATION TO BE PROVIDED TO HOME OWNERS APPLYING FOR BUILDING PERMITS**

The Building Department shall provide to all homeowner applicants for a building permit to perform residential contracting services an information bulletin created under the direction of the Building Commissioner, which describes the homeowner's rights under the Home Improvement Contractor Law, Massachusetts General Laws Chapter 142A ("HICL"). The Building Commissioner shall regularly update the information bulletin with guidance from Town Counsel, the Massachusetts Office of Consumer Affairs and Business Regulation and the Massachusetts Home Improvement Contractor Program.

Whenever a contractor applies for a building permit to perform residential contracting services as the agent for the owner, the information bulletin shall be sent to the homeowner by first class mail.

or act on anything relative thereto.

**ARTICLE 10**

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

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

"(c) Graffam-McKay Local Historic District

There is hereby established an Historic District, to be entitled the "Graffam-McKay Historic District", the boundaries of which shall be shown on the map entitled "Graffam-McKay Historic District", a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

(d) Other Historic Districts

Other Historic Districts within the Town may be established from time to time in accordance with the procedures set forth in Chapter 40C of the Massachusetts General Laws, as amended from time to time."

or act on anything relative thereto.

**ARTICLE 11**

To see if the town will authorize the Board of Selectmen to lease, for not more than ten years, upon such terms and conditions as the Board of Selectmen determines to be in the best interest of the town, a portion of the town-owned land known as the Walnut Hills Cemetery, to a company that will install and be responsible for the operation of a wireless telecommunications facility and related equipment to be used for wireless telecommunications, for an annual payment to the Town of not less than \$50,000, or act on anything relative thereto.

**ARTICLE 12**

To see if the Town will discontinue as a public way that portion of Reservoir Road (the discontinued area) shown on the plan by Peter Ditto, Town Engineer, a copy of which is on file together with a copy of this article in the Town Clerk’s office, which plan is incorporated herein and made a part hereof, bounded and described, according to said plan, as follows:

Northwesterly	by that portion of Reservoir Road discontinued May 16, 1978;
Northeasterly	by land of Fenton;
Southeasterly	by the intersection of Middlesex and Reservoir Roads; and
Southwesterly	by land of Feibel;

Containing 4,024.39 square feet, as shown on said Plan, entitled: PLAN OF DISCONTINUANCE OF A PORTION OF RESERVOIR ROAD, BROOKLINE MASS., dated September 9, 2004, with all of the boundaries, distances and courses shown on said Plan;

and designate and retain the discontinued area for park purposes, or act on anything relative thereto.

**ARTICLE 13**

To see if the town will vote to establish a Planning Board under the provisions of General Laws, Chapter 41, Section 81A, as most recently amended. The Board as constituted would be abolished upon the next annual town meeting and replaced by an elected board. The board shall be made up of five members serving for a three-year term of office. At the next annual town election two members shall be elected for a one year term, two members for a two year term, and one member for a three year term.

or act on anything relative thereto.

**ARTICLE 14**

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 OFFER INCENTIVES TO THE OWNERS OF TWO AND THREE FAMILY DWELLINGS TO RENT UNITS TO LOW OR MODERATE INCOME HOUSEHOLDS

Be It Enacted, etc., as follows:

Section 1. Notwithstanding any general or special law to the contrary, in the town of Brookline (town), the owner (owner) of a two or three family dwelling (the dwelling) situated in the town, who occupies and resides in one of the units in the dwelling, who establishes, by a restriction recorded or registered with Norfolk County Registry of Deeds, another unit in the dwelling as a low or moderate income unit(eligible unit) for a period of not less than five (5) years or such other term, not to exceed ten (10) years, as determined by the town, and rents that unit to a qualified low or moderate income household, may annually apply for and is eligible to receive a residential exemption, under section five C in Chapter fifty-nine of the General Laws, for the eligible unit, if it is annually determined by the town's assessors (assessors), a. that the owner occupies and resides in one of the units in the dwelling, b. that the eligible unit is restricted as a low or moderate income unit under a current restriction, as referenced above, c. that the eligible unit has been and continues to be rented to a qualified low or moderate income household and d. that the rent to be collected for the eligible unit does not exceed the maximum rent permitted by the Brookline Housing Authority, based upon the size of the eligible unit under the federal voucher program for a tenant paying thirty per cent of its income on housing costs. The owner shall annually file with the assessors a notarized affidavit that certifies whether or not the conditions in a., b. c. and d., above, are and will continue to be satisfied.

Section 2. "Low or moderate income household" as used herein means households with gross household income less than or equal to eighty per cent of the area median income as determined, from time to time, by the United States Department of Housing and Urban Development.

Section 3. Each year the assessors shall certify to the director of planning and community development of the town the number of eligible units in the town. The number of eligible units so certified shall be added to "Low or moderate income housing," as defined in section 20 in chapter forty B of the general laws, in determining whether or not low or moderate income housing exists in the town which is in excess of ten per cent of the housing units reported in the latest federal decennial census of the town.

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

or act on anything relative thereto.

## **ARTICLE 15**

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

**AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO ESTABLISH A PUBLIC SAFETY INJURED ON DUTY MEDICAL EXPENSES TRUST FUND**



area serving the general retail needs of a major part of the Town, including but not limited to general merchandise department store, *supermarket, grocery store*, furniture and household goods.

**[\* supermarket over 10,000 sq. ft. is an allowed use in a G district.]**

or act on anything relative thereto.

## **ARTICLE 18**

To see if the Town will amend the Zoning By-laws as follows:

A. In ARTICLE IV USE REGULATIONS, SEC. 4.08, AFFORDABLE HOUSING REQUIREMENTS, Paragraph 3. Applicability, subparagraph a. substitute “the creation of” for “any net increase” and after the semi-colon and before “and” add a clause reading: “except that any pre-existing units that are retained as part of the project shall not contribute to such count;”, so that the new paragraph reads:

“any project that results in the creation of six or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction or change of existing residential or non-residential space, except that any pre-existing units that are retained as part of the project shall not contribute to such count; and”

B. In ARTICLE IV USE REGULATIONS, SEC. 4.08, AFFORDABLE HOUSING REQUIREMENTS, Paragraph 5. Required Affordable Units, subparagraph a. in the first sentence substitute “the creation of six or more dwelling units in accordance with paragraph 3., above,” for “any net increase of six or more dwelling units”, so that the first sentence of the new paragraph reads:

“For projects resulting in the creation of six or more dwelling units in accordance with paragraph 3., above, the applicant shall be required to set aside 15% of the units so created as affordable units, except as the provisions of subparagraph d., below, shall apply.”

C. In ARTICLE IV USE REGULATIONS, SEC. 4.08, AFFORDABLE HOUSING REQUIREMENTS, Paragraph 5. Required Affordable Units, subparagraph d. substitute “the creation of six to 15 dwelling units in accordance with paragraph 3., above,” for “any net increase of six or more dwelling units”, so that the new paragraph reads:

“For projects resulting in the creation of six to 15 dwelling units in accordance with paragraph 3., above, the applicant may choose to make a cash payment to the Housing Trust based on the Affordable Housing Guidelines.”

or act on anything relative thereto.

## **ARTICLE 19**

To see if the Town will amend the Zoning By-law by inserting the following new Section 3.03 Interim Planning Overlay District as part of Article III, Establishment of Zoning Districts.

### Section 3.03 – INTERIM PLANNING OVERLAY DISTRICT

#### 1. Purpose and Objectives

The Zoning By-Law and Map may be amended by Town Meeting from time to time to address changes in land use, environmental and economic conditions that reflect the evolution of the Town and the recommendations of town-wide or district related plans and studies.

An Interim Planning Overlay District may be adopted for a specified period of time, no greater than twelve months, at an annual or special Town Meeting in accordance with the provisions of Chapter 40A of the General Laws in order to provide an opportunity to complete district or neighborhood level planning studies, including evaluation of land use, density, dimensional, parking and other requirements. If found warranted, revised zoning regulations and/or design guidelines shall be submitted to Town Meeting for adoption to better manage growth consistent with the Town's Comprehensive Plan or the recommendations of subsequent studies. The interim zoning regulations or design guidelines established during the study period will ensure that an area is not impacted by inappropriate growth.

#### 2. Regulations

An Interim Planning Overlay District established in accordance with this section may apply to a district or sub-districts and may replace or amend the Zoning By-law related to use, density, dimensional, parking, design or other regulations for the specified time period, not to exceed twelve months from the date of adoption by Town Meeting.

#### 3. Procedures

The Building Commissioner shall not approve applications for building permits that enable the construction or improvement of uses and/or structures during the time period during which the interim regulations or design guidelines apply.

If the Building Commissioner denies an application for a building permit, an applicant may appeal the decision of the Building Commissioner to the Board of Appeals in accordance with G.L.c.40A, Section 8. In any such appeal, the Board of Appeals shall seek an advisory report from the Planning Board. The Planning Board shall base its findings and recommendations in any such appeal on the specific regulations and guidelines established by Town Meeting for the Interim Planning Overlay District.

#### 4. Establishment

An article proposing the establishment of an Interim Planning Overlay District shall, at a minimum, include the following:

- a. physical boundaries of the proposed district through a survey or map delineating the boundary in relation to existing zoning, streets and property lines as defined by the Town's Zoning Map and Assessor's Atlas.
- b. current land use, zoning and other physical characteristics of the area included within the proposed district.
- c. purpose of the proposed district and why the existing underlying zoning may not be appropriate.
- d. conformance of the proposed district with the Town's Comprehensive Plan or other land use and related studies or plans.
- e. scope of work to be undertaken that will produce proposed Zoning By-Law and Map amendments for consideration by Town Meeting.
- f. length of time, not greater than twelve months, from the date of passage by Town Meeting, for which the district will be effective and for the completion of the supporting study necessary to submit Zoning By-Law and Map amendments for consideration by Town Meeting.
- g. use, dimensional, parking and other related regulations in the Zoning By-Law which will be replaced or amended during the effective period of the district; and
- h. interim use, dimensional and related Zoning By-Law regulations or design review guidelines that will be effective during the interim period in which the district is in place.

5. Severability

The provisions of this section of the Zoning By-Law are severable, and if any such provision shall be held invalid by a court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of the Zoning By-law.

6. Districts

(To be inserted into the Zoning By-Law for a period no greater than twelve months following adoption of such districts at future Town Meetings.);

or any act relative thereto.

**ARTICLE 20**

To see if the town will amend the Zoning By-law with respect to the ZONING MAP as follows:

- 1. Rezone from S-10 to S-15: Block 265, lots 36 and 37; Block 266, lots 01-01, 01, 02, 02-02, 03 and 04; Block 278C, lots 01, 02, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31; Block 279;

Block 280, lots 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, and 12; Block 281; Block 282; Block 283; and Block 284 (and any other lots zoned S-10 within Blocks 266, 278C, 279, 280, 281, 282, 283, and 284); and

2. Rezone from S-10 to S-15: Block 432, lots 25 and 26; Block 434; Block 435; Block 436; and Block 437, lots 01, 68, 69, 70, 71, 72, 73 and 74 (and any other lots zoned S-10 within Blocks 432, 434, 435, 436 and 437);

Or act on anything relative thereto.

## **ARTICLE 21**

To see if the Town will adopt the following Resolution:

Resolution supporting overhaul of 2-hour parking ban, with targeted and codified priorities

"If we make criminal that which people regard as acceptable, people's attitude toward the meaning of criminality changes." Professor Herbert Packer, Stanford Law School, 1968

WHEREAS: According to the Transportation Department, "the primary purpose of *both* the 2-hour parking rule and residential permit program is 'to prohibit non-residents and commuters from parking for extended lengths of time on designated residential streets ... .'" (emphasis in original); and

WHEREAS: While banning *all* 2-hour parking *may* make sense in some locations (including residents and their guests), in most places it is needed only for only non-resident cars, and in many places not at all; and

WHEREAS: For no reason specific to the 2-hour ban, enforcement of it has, at least in some (apparently random) areas, recently increased -- with about 24,229 tickets issued in 2003, many for residents; and

WHEREAS: In some (if not all) such areas, most residents don't mind neighbors parking near their own houses for over two hours, including e.g. residents who leave to do errands and return hours later to park (anywhere) on the same street (even for a moment, even if the street is empty). For almost two years, many of these residents have been voicing great frustration and anger; and

WHEREAS: Conversely, some residents have sought, without success, more ticketing on their specific streets, which would be better achieved if the rule were clearly prioritized according to real needs; and

WHEREAS: Brookline takes great pride in the overall professionalism of our Police Department; but neither "selective" nor "discretionary" nor (ad hoc) "complaint-driven" enforcement, is either fair or efficient; they are all inconsistent with "community policing"; and purposeless enforcement of laws can seem at best arbitrary and at worst like harassment; and

WHEREAS: On June 11, 2002, ostensibly to reevaluate the program, the Transportation Board established a "moratorium," still in effect, on the "Resident Permit Parking" program, the longstanding (but overly cumbersome) method for citizens to seek residents' exemptions from 2-hour ban in specific locales; and despite discussing the 2-hour ban four times over the last two years at the urging of many citizens and Town Meeting Members, the Transportation Board declines to reassess the overall policy; and

WHEREAS: Neither the 2-hour ban nor this Resolution affects the overnight parking ban,

NOW, THEREFORE, BE IT RESOLVED, that Brookline's representative Town Meeting urges that:

(1) the Board of Selectmen and the Transportation Board each declare as its policy a prompt and major overhaul of the 2-hour parking ban for residents (and where possible, their guests) in the vicinity of their own homes, creating instead targeted and codified enforcement priorities according to real needs; and

(2) specifically, the "default" rule should be reexamined to presumptively and explicitly allow residents (and where possible, some guests) to park in the daytime for over 2 hours in the vicinity of their own homes -- except for specific problems areas where particular problems are found. Or else, do so by resuscitating, simplifying, and widely publicizing the Resident Permit Program; and

(3) whatever regulations ensue, the now-spotty signage should be clear and fair in all areas.

, or act on anything relative thereto.

## **ARTICLE 22**

To see if the Town will adopt the following resolution:

WHEREAS the nation's pediatric professionals and children's advocates advise against the use of corporal punishment of children;

WHEREAS research shows that corporal punishment teaches children that hitting is an acceptable way of dealing with problems and that violence works;

WHEREAS there are effective alternatives to corporal punishment of children;

WHEREAS national surveys show that corporal punishment is common and 25% of infants are hit before they are 6 months old;

WHEREAS adopting national policies against corporal punishment has been an effective public education measure in various countries;

WHEREAS accumulated research supports the conclusion that corporal punishment is an ineffective discipline strategy with children of all ages and, furthermore, that it is sometimes dangerous;

WHEREAS studies show that corporal punishment often produces in its victims anger, resentment, low self-esteem, anxiety, helplessness, and humiliation;

WHEREAS research demonstrates that the more children are hit, the greater the likelihood that they will engage in aggression and anti-social behavior as children imitate what they see adults doing;

WHEREAS in a study of 8000 families, children who experience frequent corporal punishment are more likely to physically attack siblings, develop less adequately-developed consciences, experience adult depression, and physically attack a spouse as an adult;

WHEREAS, according to human rights documents, children, like adults, have the right not to be physically assaulted;

WHEREAS the U.N. Committee on the Rights of the Child has consistently stated that persisting legal and social acceptance of corporal punishment is incompatible with the U.N. Convention on the Rights of the Child;

WHEREAS this resolution is supported by the Massachusetts Society for the Prevention of Cruelty to Children, Massachusetts Citizens for Children, and the Massachusetts Chapter of the National Association of Social Workers;

BE IT HEREBY RESOLVED that Town Meeting encourages parents and caregivers of children to refrain from the use of corporal punishment and to use alternative nonviolent methods of child discipline and management with an ultimate goal of mutual respect between parent and child.

Town Meeting requests that appropriate Town groups such as the Advisory Council on Public Health and PTOs explore how they can raise awareness of this issue, and organizations that deal with children's welfare shall be informed of this resolution;

Or any act relative thereto.

**ARTICLE 23**

To see if the Town will consider dedicating a memorial sign at Thorndike and Harvard Street in honor of Maxwell Adler, Korean War Veteran.

**ARTICLE 24**

To see if the Town will rename the Town Park, designated as Lot 11, Block 73 in the Town Atlas, now known as the Coolidge Playground, located on Columbia Street, between Kenwood and Russell Streets, the “Judge Sumner Z. Kaplan Playground and Park”,

or act on anything relative thereto.

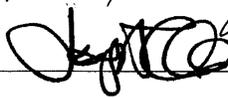
**ARTICLE 25**

Reports of Town Officers and Committees

AND YOU ARE DIRECTED TO SERVE THIS WARRANT IN ACCORDANCE WITH THE BY-LAWS OF THE TOWN OF BROOKLINE.

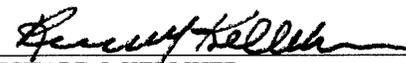
HEREOF FAIL NOT, and make due return of this WARRANT, with your doings thereon, to the Selectmen FOURTEEN DAYS at least before the day of said meeting.

Given under our hands and the seal of the Town of Brookline at Brookline, Massachusetts, this 14<sup>th</sup> day of September, 2004.

  
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BOARD OF SELECTMEN

A TRUE COPY, ATTEST:

  
\_\_\_\_\_  
RICHARD J. KELLIHER  
TOWN ADMINISTRATOR

