

**WARRANT ARTICLE EXPLANATIONS  
FILED BY PETITIONERS FOR THE  
NOVEMBER 15, 2011 SPECIAL TOWN MEETING**

ARTICLE 1

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

ARTICLE 2

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

ARTICLE 3

This article is inserted in the Warrant for any Town Meeting when budget amendments for the current fiscal year are required. For FY2012, the warrant article is necessary to balance the budget based on final State Aid figures and re-allocate funds from the Group Health Insurance line-item.

ARTICLE 4

Under Title 26 U.S.C., Subtitle F, Chapter 79, § 7701 (16) of the IRS Code a

**FEDERAL WITHHOLDING AGENT** is defined as the

“ person required to deduct and withhold any tax under the provisions of sections:

- §1441 Withholding of tax on **NONRESIDENT ALIENS**
- §1442 Withholding of tax on **FOREIGN** corporations
- §1443 **FOREIGN** tax-exempt organizations
- §1461 Section 1461. Person liable for withheld tax

ARTICLE 5

This article would establish the category of Neighborhood Conservation District (NCD) in the Town’s By-Laws and permit the creation of specific NCDs in the Town through further Town Meeting action. The initiative for this article came from the Planning & Community Development Department, from abutters of Hancock Village, and from the interest in an NCD By-Law among residents of the Lawrence School neighborhood as an additional tool to supplement the new Lawrence Local Historic District. The article was largely drafted by Selectman Richard Benka with additional input from Town planning staff (including Regulatory Planning, Economic Development and Preservation), Town Counsel’s office, and a member of the Massachusetts Historical Commission, Dennis DeWitt.

The establishment of the NCD mechanism in Town has been at least seven years in the making. Brookline’s most recent Comprehensive Plan, published in 2004, recognized that “[z]oning alone does not always provide a sufficiently complete context for defining what kinds of changes are desirable in individual neighborhood contexts or what unique elements of a neighborhood should be preserved.” *Brookline Comprehensive Plan 2005-2015*, at p. 24. The Plan also recognized the need to “[e]nhance neighborhood

consultation in land use, density and design decisions.” *Id.* at 28. The Comprehensive Plan referred to several possible tools, including “the use of Neighborhood Conservation Districts (NCDs) in areas of Town with historic significance” in order “to minimize negative impacts to the historic character of the area.” *Id.* at 78. At the time, Cambridge was the sole Massachusetts community listed as having NCDs.

In accordance with the suggestion of the Comprehensive Plan, the Town undertook a *Neighborhood Conservation District Study for the Town of Brookline*. The study was funded by the Massachusetts Historical Commission with the National Park Service and was completed in September 2005. The 2005 study included examples of NCD by-laws from 22 communities, including Amesbury and Lexington in Massachusetts in addition to Cambridge.

The potential utility of Neighborhood Conservation Districts was emphasized in *Preservation through Bylaws and Ordinances*, published by the Massachusetts Historical Commission (MHC) in October 2010. The MHC noted that an NCD (also referred to as an Architectural Preservation Districts or Architectural Conservation District) “protects the overall character of an area by regulating the demolition and major alteration of buildings and by assuring that new construction respects the scale, massing, street pattern, setback and materials of existing buildings.” It is appropriate “where protection of the overall scale, streetscape and historic buildings is necessary.” NCDs are created by “a general bylaw that requires a simple majority vote of town meeting or city council” and is “adopted pursuant to home rule authority.” *Id.* at 25. In addition to the Cambridge NCDs, the MHC report pointed to a Boston “Protection Area” adjacent to the South End as well as to neighborhood districts in Lowell, North Andover and Northampton. In addition, Lincoln enacted a NCD by-law in 2006 and Wellesley created its first Neighborhood Conservation District in 2008.

The NCD By-Law is designed to be more neighborhood-specific than the Town’s Local Historic District (LHD) By-Law. With some minor exceptions, Brookline’s LHD guidelines apply uniformly to properties in all local historic districts. For example, under the universally applicable LHD guidelines, shutters should not be removed and even if the shutters are already missing, shutter hardware should be retained. Windows should be repaired, not replaced. Open porches facing the street should not be enclosed. The guidelines are written in detailed terms, and could prohibit changes, especially on front facades, even if they might seem compatible with the neighborhood. The guidelines for a particular NCD, unlike an LHD, can be focused less on preservation of the specific details of each structure in a neighborhood and more on preserving the general character of a neighborhood, by ensuring that the general scale, composition, massing and design is compatible with the site as well as other existing structures in the surrounding area.

NCDs have been adopted in Massachusetts and other states to provide cities and towns with greater flexibility in neighborhood preservation than would otherwise exist. NCDs can be fine tuned to specific neighborhoods, with each NCD having guidelines that are appropriate to the needs and characteristics of the specific neighborhood. For example, if the concern in a neighborhood is preserving the existing scale of structures, the guidelines for that NCD could focus on demolition of existing structures and the scale and massing of new buildings. In addition, because a Brookline NCD would be created under the home rule amendment of the state constitution, it can address issues beyond the scope of M.G.L. c.40C, which underlies the Town’s LHD by-law. Thus, the guidelines for an

NCD could address landscape and urban issues such as protection of landscapes, open spaces, viewsheds and paving without grade changes.

As the *Neighborhood Conservation District Study for the Town of Brookline* recognized, an NCD By-Law serves another purpose: an NCD can “provide protection for areas that might not be viewed as ripe for designation” for the detailed constraints of a local historic district, “such as subdivisions dating to the post-WWII through 1975 period.” *Id.* at 16. Again, an NCD in such a neighborhood might be less concerned with design details and more concerned with, as the MHC stated, preserving the general character of a neighborhood by ensuring that “new construction respects the scale, massing, street pattern, setback and materials of existing buildings.”

Moreover, each NCD can be administered by a separate commission with particular knowledge of the concerns affecting that neighborhood, including not just members of the Preservation Commission but also residents of the NCD or surrounding areas, or individuals with expertise in issues faced by a particular NCD.

This article would add a new Section 5.10 to the Town’s General By-Laws, providing the structure pursuant to which specific NCDs could be created by further Town Meeting action. The article sets forth definitions that will be applicable in all NCDs. It identifies the scope of projects that will be potentially subject to review in an NCD as well as identifying the types of design details that will never be subject to review, leaving the specific guidelines appropriate for each district to the warrant article creating each such district. The article also sets forth the procedures for creation of the NCD Commission for each district (composed of both Preservation Commission regular or alternate members and other residents of the Town) as well as the procedures that such Commission will follow in reviewing projects within an NCD.

This article, in short, provides the framework for the creation of Neighborhood Conservation Districts in the Town. While the current interest in the NCD tool is primarily related to Hancock Village, the tool also has a great deal of potential to provide another option for residents who seek to manage change in other neighborhoods.

#### ARTICLE 6

This article would designate the Hancock Village neighborhood as a Neighborhood Conservation District. The initiative for this article came from numerous neighbors, and the article was largely drafted by Selectman Richard Benka with additional input from the staff of the Planning & Community Department (including Regulatory Planning, Economic Development and Preservation), Town Counsel’s office, and a member of the Massachusetts Historical Commission, Dennis DeWitt.

The *Neighborhood Conservation District Study for the Town of Brookline*, published in September 2005, recognized that Neighborhood Conservation District designation could “provide protection for areas that might not be viewed as ripe for designation” for the detailed constraints of a local historic district, “such as subdivisions dating to the post-WWII through 1975 period.” *Id.* at 16.

Hancock Village is just such a district. It was developed between 1946 and 1949 as the first and largest garden city apartment complex in Brookline and is one of the most important developments of that type in New England. It is significant as a far-sighted,

historically important collaboration between the town of Brookline and the Boston-based John Hancock Mutual Life Insurance Company to provide both employment and housing for returning World War II veterans. Recommended for listing in the National Register of Historic Places in 2008 by the Brookline Preservation Commission, Hancock Village combined housing for families with extensive preservation of green space and natural landscape features. The Brookline Planning Board in 1946 described the “Garden Village” development as “one of the most attractive of all types [of developments] because the units are well-separated, with an attractive variety of architectural features, ... [and] fine landscaping,” and that “Brookline should be proud to have, in its area, the first [such] development.”

The development, which straddles the Brookline-Boston line, consists of 789 two-story attached townhouses, most of which are located in Brookline. In consideration of a zoning change by the Town which allowed the development to proceed, the development was designed and built as a high-quality development “garden village” style. The model for garden city apartments consisted of low-density, low-scale multi-family housing, based on precedents from the English garden city ideal and the development of vehicle-free superblocks with separate pedestrian circulation in Germany in the early years of the twentieth century. Hancock Village reflected the most advanced garden city apartment complex planning and landscape design principles of its time, meaning that each dwelling unit had a separate entrance to the exterior; the units were town-homes of two stories with peaked roofs; there was substantial common area open space; there was a separation of pedestrian and vehicular circulation; natural landscape features, such as prominent outcroppings of puddingstone, were preserved; and there was a “greenbelt” established around its perimeter. Such elements were embodied in commitments made on behalf of John Hancock Insurance by its president Paul F. Clark, including an agreement with the Town of Brookline executed March 11, 1946. That agreement stated:

- A. That any development ... of said area will be of a high-grade garden village type of housing development;
- B. That horizontally divided family dwelling units will not exceed 25% of the total number of family units to be constructed in said area;
- C. That dwellings with flat or approximately flat roofs will not exceed 25% of the total number of such buildings to be constructed in said area;
- D. That building coverage shall not exceed 20% of said area; and
- E. That no building over 2½ stories in height, measured from the highest point of the finished grade of each unit, will be constructed in such area.

In addition, as suggested by the Planning Board, see minutes of January 11, 1946, and as confirmed by Mr. Clark, “[i]t was agreed that we would preserve a ‘buffer strip’ in [the] single family zone along the side of the land toward Russett and Beverly Roads.” See History of Hancock Village, by President Paul F. Clark, May 1951, Proceedings of the Brookline Historical Society. Mr. Clark described the overall design concept: “The architectural treatment was consistent with local preference. Low land coverage, allotting only ten families to the acre, leaves generous exposure to sunshine and the four winds. A modified interpretation of colonial moti[f]s and simple proportions produce ... pleasant effects in mass and color.”

Hancock Insurance hired developer Gustave Ring, who had worked in the Washington, D.C. area on garden apartment complexes that became models for the Federal Housing

Authority. Louis Justement was the architect, and the landscape design was by Olmsted Associates, a Brookline-based landscape architecture firm with international experience and prestige.

Significantly, Hancock Village remains the quality housing environment envisioned in those commitments and in its original design, and therefore remains internally coherent in design and compatible in its scale, siting and impact with the surrounding community of which it is a part and with the D. Blakely Hoar Wildlife Sanctuary. This is especially true due to the retention in Hancock Village of open lawns, courtyards and common areas, pedestrian paths, consistent town-house style buildings of modest scale, unobstructed sky planes, buffer zones, and significant landscape features such as its prominent puddingstone outcrops. Retaining integrity of location, design, setting, materials, workmanship, feeling, and association, the Hancock Village Neighborhood has as such remained an important historic area in Brookline and a compatible part of the fabric of the community and the adjacent neighborhood.

The warrant article would preserve that integrity into the future. It is designed to ensure compatibility of any alterations on the site (including without limitation demolitions, additions, or new construction) with the existing neighborhood and abutting properties. It is further designed to ensure the preservation of the building scale and siting, pedestrian paths, rock outcroppings, courtyards, viewsheds and other open spaces that define the character of Hancock Village.

#### ARTICLE 7

This Warrant Article would prohibit the sale of tobacco products on the property of any educational institution or health care provider. Tobacco use is the leading cause of preventable disease, disability, and death in the U.S., causing approximately 443,000 Americans to die prematurely each year<sup>1</sup>. In fact, tobacco is the only legal product that kills half its consumers when used as recommended by manufacturers<sup>2</sup>. Because health care providers and educational institutions have trusted roles in our society, it is appropriate to hold those entities to a higher standard with respect to such dangerous products.

In many ways, the local educational institution acts in the place of the parent within Brookline, i.e., *in loco parentis*. Students look to their college for guidance on a myriad of complex social issues, and we expect the schools to provide that guidance, including with regard to substance abuse. Local universities have sought a strong relationship with Brookline government in an effort to provide a safe experience for students. Data suggest that college students are members of a cohort with increased risk of smoking initiation as well as increased risk into regular patterns of use<sup>34</sup>. Allowing for the sale of tobacco products on campus is diametric to providing that safe experience, both for the

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<sup>1</sup> Center for Disease Control and Prevention. Smoking-attributable mortality, years of potential life lost, and productivity losses—United States, 2000-2004. MMWR Morb Mortal Wkly Rep. 2008; 57(45):1226-8.

<sup>2</sup> Luiza da Costa e Silva, Vera. Regulatory challenges regarding the ISO/FTC standards on tobacco products testing. WSC high-level workshop on international standards for medical technologies. Conference presentation. February 2004. [http://www.iso.org/iso/wsc-medtech\\_9\\_Da\\_Costa\\_e\\_Silva.pdf](http://www.iso.org/iso/wsc-medtech_9_Da_Costa_e_Silva.pdf)

<sup>3</sup> Bachman, J.G., Wadsworth, K.N., O'Malley, P.M., Johnston, L.D., Schulenberg, J.S. Smoking, Drinking, and Drug Use in Young Adulthood: The Impacts of New Freedoms and New Responsibilities. 1997.

<sup>4</sup> Chassin, L., Presson, C.C., Sherman, S.J., Edwards, D.A., The natural history of cigarette smoking and young adult social roles. Journal of Health and Social Behavior. 1992. 33,328-347.

college students and for the children at numerous summer camps or K-12 courses provided by these educational institutions.

The Boston Public Health Commission banned tobacco sales at educational institutions in late 2008. Since then, no educational institution within the City of Boston has sold tobacco products in their bookstores or convenience stores on campus, nor have independent retailers situated on campus been permitted to sell tobacco products. Needham, Fall River, Wellesley, and Worcester have followed Boston's lead.

With the same stoke of pen, Boston prohibited the sale of tobacco in health care institutions, including pharmacies. Fifteen other communities within Massachusetts have followed suit. Chronologically, Boston, Needham, Newton, Everett, Walpole, Lancaster, Southboro, Oxford, Fall River, Wakefield, Westford, Worcester, Wellesley, Somerville, Westwood, and Chatham have all enacted the ban; this list includes 20% of the population of the Commonwealth. A total of 197 establishments are affected by the ban in those communities, with a high of 88 in Boston and a low of 0 in Lancaster. Eight of eleven provinces in Canada prohibit the sale of tobacco in pharmacies, and legislators in eight American states have proposed prohibitions.

This by-law would rectify the inherent conflict of interest where cigarettes are sold by health care providers in the front of the store while pharmaceuticals needed to treat tobacco-caused illnesses such as chronic obstructive pulmonary disease (COPD) and emphysema are sold in the back of the store<sup>5</sup>. Pharmacists and pharmacy school students don't believe it's appropriate for pharmacies to sell tobacco by overwhelming margins<sup>6</sup>. Many independent pharmacies agree; no independent pharmacies in Brookline sell tobacco products at this time. Most pharmacy consumers are indifferent to sales of cigarettes, but of those who expressed an opinion, almost 5:1 claimed that they would shop at the drugstore more often if tobacco products were no longer sold there<sup>7</sup>.

None of the Massachusetts communities that have passed this ban have been sued. San Francisco has been sued multiple times. When the dust settled, the ban in San Francisco wasn't unscathed: it was expanded<sup>8</sup>.

Regulations prohibiting the sale of tobacco in pharmacies are supported by the American Academy of Pediatrics, the American Lung Association in New York, the American Medical Association, the American Pharmacists Association, the American Thoracic Society, the George Washington University Medical Faculty Associates, the Massachusetts Medical Society, and the University of San Francisco School of Pharmacy.

## ARTICLE 8

For public safety reasons, there is a need to conduct criminal record background checks of persons seeking a Town license to conduct certain occupational activities within the

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<sup>5</sup> Wilson, DJ. Communities Mull Drugstore Ban. The Beacon. March 2011.

<sup>6</sup> Suchanek Hudman, K., Fenlon, C.M., Corelli, R.L., Prokhorov, A.V., Schroeder, S.A. Tobacco sales in pharmacies: time to quit. Tobacco Control. February 2006. 15(1): 35-38.

<sup>7</sup> Ibid.

<sup>8</sup> Judge tosses Safeway lawsuit over S.F. tobacco ban. San Francisco Chronicle. July 16, 2011.

Town. Liquor licensees and their managers, hawkers and peddlers, taxi cab operators, door-to-door solicitors, second-hand dealers, automobile dealers, and ice cream truck vendors hold a position of trust with children, elderly people and other people at risk, gain possession of another person's property, and/or assume control of premises selling alcoholic beverages. State law requires municipal licensing authorities to conduct criminal record background checks of liquor license applicants and their proposed managers and of ice cream truck vendor license applicants,<sup>9</sup> and permits municipal licensing authorities to conduct such background checks of the other occupational license applicants addressed by this proposed by-law.<sup>10</sup>

Until now, the method of criminal record background checks permitted by law has been a name-based check that only searches a person's name within the Commonwealth of Massachusetts's probation records. The results of such searches include only Massachusetts criminal records; they do not include the criminal records of other states or pertaining to federal crimes. In addition, name-only-based checks do not include crimes where the subject used a false name at the time of the arrest. Thus, name-based checks could lead to license approvals of unsuitable persons who pose a risk to the public. Moreover, some experts believe that name-based checks carry a high error rate. For that reason, they could lead to false accusations against innocent people having names similar to wrongdoers. For these reasons, biometrically-based criminal record background checks such as those based on fingerprints are considered to be more reliable than name-based checks.

Federal law permits the FBI to assist with national criminal record background checks for municipal licensing purposes only when based on fingerprints and only for municipalities that have enacted a local law authorizing the FBI to do so. On August 5, 2010, as part of the CORI reform law ("CORI" stands for "criminal offender record information), the Governor signed legislation (codified at Chapter 6, Section 172B ½ of the Massachusetts General Laws) providing municipalities with the authority to pass ordinances and by-laws that would authorize and permit the FBI to assist with fingerprint-based national criminal record background checks in connection with such professional or occupational licensing as the municipality may specify in its ordinance or by-law. This provision of the CORI reform law takes effect on May 6, 2012; the by-law, if passed, would not be implemented until then.

## ARTICLE 9

Three years ago, in the November 2008 Town Meeting, an article to limit moderately the use of power leaf blowers was narrowly voted no action. The strongest argument against the article was that there were provisions in the newly revised town noise ordinance voted into effect at the same Town Meeting, and a number of Town Meeting members deferred to the new noise ordinance, to give it a chance to control the abuse and excessive noise

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<sup>9</sup> See Mass. Gen. Laws ch. 138, §§ 12 (requiring that applicants for pouring licenses be of character satisfactory to the licensing authority and disqualifying applicants with a federal or state narcotics drug law conviction), 15 (requiring that applicants for package store licenses be of character satisfactory to the licensing authority and disqualifying applicants who have been convicted of a felony), and 26 (requiring that managers be of character satisfactory to the licensing authority); 2010 Mass. Acts ch. 256, § 122 (amending Chapter 270 to add Section 25 requiring that applications for an ice cream vending license be accompanied by applicant's fingerprints, requiring licensing authority to conduct criminal history background check of applicant, effective February 6, 2012).

<sup>10</sup> See "General Grants" of authority to conduct criminal history background checks of municipal licensees issued by DCJIS.

and use of power leaf blowers. Three years have passed and the noise ordinance has had little noticeable effect at all upon the abuse of power leaf blowers. Thus Town Meeting should revisit a reasonable limitation on the abuse of power leaf blowers.

Leaf blowers are not just a source of offensive noise but are a usually wholly unnecessary source of air pollutants, including carbon dioxide (CO<sub>2</sub>), particulate matter (PM<sub>10</sub>), fine particulate matter (PM<sub>2.5</sub>), carbon monoxide (CO), mono-nitrogen oxides NO and NO<sub>2</sub> (NO<sub>x</sub>), and sulfur dioxide (SO<sub>2</sub>). These emissions contribute to climate change, regional haze, acid rain and ground level ozone. Furthermore, these emissions contribute to heart disease, lung disease, asthma attacks and other medical problems. At a time when we seek to reduce our carbon footprint and our dependence on foreign oil, we see too many instances where a landscape employee powers up a gas powered leaf blower to blow a few grass clippings off a walkway or where apartment maintenance staff cleans dust off the sidewalk and entryway with a power leaf-blower instead of using a broom. This is an unnecessary use of oil and the kind of behavior we need to eliminate if we are to battle global warming and our dependence on foreign oil.

While some would ban leaf blowers altogether, this article provides a reasonable regulatory balance, still allowing homeowners to use leaf blowers for their intended use, to gather leaves up in the spring and fall, but limiting the excessive use where inappropriate.

#### ARTICLE 10

As originally drafted, the legislation that authorized Brookline to sell taxi medallions (which the legislature enacted in March 2010 as 2010 Mass. Acts ch. 51) directed the proceeds from the sale of medallions to the General Fund. Since the legislation's enactment, the Town has worked closely with a consultant and it appears that the preferred auction process will be one that is done in phases. As a result, the Town may receive the proceeds during multiple fiscal years, complicating the process of accounting for and developing a spending plan for the revenue. This warrant article amends the legislation so that a separate Taxi Medallion Fund can be established on the books of the Town, with all proceeds from the sale of medallions to be deposited into the fund. Any and all expenditures would still require Town Meeting approval. This is purely a technical change that will allow for a clearer accounting and understanding of all revenues derived from the sale of taxi medallions and of the expenditures of those revenues.

#### ARTICLE 11

[Petitioner is also contemporaneously filing a separate and companion warrant article in the form of a resolution, asking that the Board of Selectmen petition the Legislature to abolish the Norfolk County government. The Explanation provided here is also intended to supplement the Explanation for the companion warrant article.]

With county governments seen as outmoded and inefficient, in 1997 and 1998 the Massachusetts Legislature abolished most county governments in the Commonwealth (Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, Suffolk, and Worcester Counties), with the result that most Massachusetts counties currently exist only as geographic regions having no county government (such as a county council or commissioners). Many of the duties of the former county offices were transferred to state offices. For example, the duties of the Registries of Deeds all now come under the Office

of the Secretary of State while the Sheriffs (who are still elected locally to perform duties within the county region) and jails come under the Executive Office of Public Safety. However, several counties in southeastern Massachusetts remained untouched, including Norfolk County.

The Town of Brookline has been a part of Norfolk County since Norfolk County broke away from Suffolk County in 1793. (Interestingly, “In 1795, Brookline petitioned the Supreme Judicial Court to “change its allegiance” back to Suffolk County; the court however, ignored the petition”.<sup>11</sup>) Brookline became an island of Norfolk County (meaning it is completely non-contiguous to the rest of the County) when several former towns in Norfolk County, including West Roxbury, were annexed by the City of Boston. Brookline is therefore contiguous to Middlesex County (Newton) and Suffolk County (Boston).

Because Norfolk County’s government was not abolished, Brookline continues to pay mandatory assessments to the County. (These assessments are taken out of the Town’s portion of State aid and distributed to the County.) For Fiscal Year 2012, the County assessment for Brookline is nearly \$700,000, which is an increase of more than 9% over the prior year. (While the County assessment to all cities and towns is capped at 2½%, there is no cap on an individual town’s assessment increase.) Further, because mandated payments to the County are based on property tax assessments, Brookline’s financial contribution is disproportionate to its population. For Fiscal 2012, Brookline is the largest contributor, accounting for 13.2% of the total tax levy of all 28 contributing communities. On the other hand, cities and towns, in counties not having a county government, pay no county assessments, such as, for example, Boston, Cambridge and Newton.

One may well question what the citizens of Brookline get for \$700,000 and most residents would be hard pressed to even name what services Norfolk County provides. While Brookline does benefit from the provision of some minimal surveying services from the County (which arguably could be provided in house), the County Agricultural high school and reduced fees at the Presidents Golf Course in Wollaston are conspicuous examples of county services which provide virtually no benefit for Brookline.

At the 2011 Spring Town Meeting, a warrant article was filed seeking to remove Brookline as a member community in Norfolk County, i.e., as a member of the Norfolk County government community. During that debate, the main argument raised in opposition to removal was that it was likely that the Brookline District Court (the State leases the courthouse from Norfolk County) would be closed if Brookline were to seek removal from Norfolk County government. The thrust of the argument was that Brookline derives a great benefit from a public safety perspective from the hearing of criminal cases in Brookline, principally from ease of access to the court. It was argued that if the court were closed police would be used to transport suspects and defendants to courthouses in other communities at a cost and inconvenience to Brookline. As a result of the debate, the warrant article was substantially modified. The home rule petition was removed and Town Meeting adopted a resolution authorizing and requesting that the Board of Selectmen:

1. To communicate with other Norfolk County municipalities about the

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<sup>11</sup> See the Secretary of State’s web site at [www.sec.state.ma.us/cis/cisctlist/ctlistidx.htm](http://www.sec.state.ma.us/cis/cisctlist/ctlistidx.htm)

inequities inherent in the current county government system and to coordinate with other Norfolk County communities who seek a remedy.

2. To petition the Town's legislative delegation to study the inequitable status, structure and assessment mechanism of remaining county governments.

3. To issue a written report on the progress made on or before September 15, 2011 and to report further in this regard at the next Town Meeting.

Although no written progress report has yet been issued, it is Petitioner's understanding that no significant progress to date has been made. Because the deadline for the filing of warrant articles for the 2011 Fall Town Meeting is September 1, 2011, Petitioner is not in a position to wait until September 15, 2011 before filing this warrant article, as well as a companion warrant article (see below) that is being filed contemporaneously.

In any event, in July 2011, State judicial officials, in an effort to cut costs, announced the relocation of 12 courthouses, including the Brookline District Court (with 101 courthouses, Massachusetts has more courthouses than any other state in the Country). Under the proposed action, for which the official 90 day notice was given in August 2011, criminal and civil cases will no longer be heard in the Brookline District Court, which would be reserved solely for juvenile cases, thereby removing any meaningful argument for Brookline's continued participation in Norfolk County government. As a consequence, Petitioner is now once again seeking a home rule petition to remove Brookline as a member community in Norfolk County.

Contemporaneously, and as a second avenue to reach the same result, Petitioner is also filing a separate and companion warrant article in the form of a resolution asking that the Board of Selectmen request that the Town's legislative delegation petition the Legislature to abolish the Norfolk County government. It is important to understand that the requested action in the companion warrant article is not to abolish Norfolk County as a geographical/political region, only the county government overlay. Most Massachusetts counties no longer have county governments – they have previously been abolished by the State Legislature. These counties still remain as geographic and political entities, except that the county government functions have been put under the direction of state offices.

We believe it is time to act. Brookline's annual assessment has grown from \$572,000 in Fiscal 2005 to nearly \$700,000 in Fiscal 2012. During that period, Brookline has paid Norfolk County well in excess of \$3 million in assessments.

#### ARTICLE 12

Petitioner is also contemporaneously filing a separate and companion warrant article requesting that the Selectmen file a home rule petition to remove Brookline as a member community in Norfolk County. Reference is made to the Explanation for that warrant article to supplement and explain further the basis for this warrant article.

#### ARTICLE 13

This resolution is seeking a walk signal designed so that pedestrians crossing Harvard St. at the Green St. crosswalk do at times when the flow of traffic along Harvard St. will be minimally impacted and traffic congestion thereby reduced. Moreover, by stopping

Harvard St. traffic with a red light, such a traffic control signal will enhance pedestrian safety. Pedestrians are already accustomed to and accepting of the existence of walk signals that limit opportunities for pedestrian crossing at established crosswalks along Harvard Street, including nearby crosswalks at Beacon St., Babcock St., Stedman/Williams Sts. and Fuller St., and the heavily used crosswalk at Green Street is rather unique in having no such control device, being situated as it is so close to busy Coolidge Corner. By discouraging pedestrian crossing at times when the resultant halting of Harvard St. traffic would most interfere with traffic flow through Coolidge Corner, a pedestrian-activated crossing signal appropriately coordinated with the timing of the Beacon Street traffic signal would help alleviate traffic congestion and thus be beneficial to commuters, local residents and Coolidge Corner businesses.

#### ARTICLE 14

The new multi-space electronic parking meters that have been installed in the Town, replacing existing single space mechanical meters, have been a dismal failure.

The new meters are difficult to operate and understand and, in many instances, have malfunctioned in a variety of ways, including simply running out of paper. They do not permit the use of cell phones as a means of payment, a technology currently being used elsewhere in the country, and the electronic screen is difficult to read in direct sunlight. They also require people to walk excessively long distances. This is especially burdensome in the rain or snow, when you have to stand in line while other people in front of you struggle with the new meters, and then you have to walk back to your car. These difficulties work against the elderly, people with disabilities and a parent alone with children.

There are also enforcement issues: The required placement of parking receipts on the dash board means that the receipts cannot be seen in the snow or other inclement weather, making it difficult to enforce the parking regulations.

Furthermore, there is a general perception that the new meters discourage shopping in our commercial districts. The old meters permitted people to park quickly, and now many people just say why bother – it's easier to go elsewhere, and that means, in many cases, going out of Brookline.

Sometimes it is important for the Town to acknowledge that it has made a mistake. This is one of those instances – even if it may be expensive to reverse or to fix.

By far, the best solution in terms of ease of operation and convenience to the user is the single space meter. Brookline may be able to acquire mechanical meters at a relatively low cost to replace the ones that have been removed and, in the process, add new technology. In Montgomery County, Maryland, there are over 4,500 single space mechanical meters that have been retrofitted with cell phone technology at very little cost. With these meters payment can be made by depositing coins, which many people still prefer, or by using your cell phone.

Alternatively, there are electronic single space meters on the market which provide high functionality and that are easy to operate – for example, meters made by IPS, one of the leading manufacturers of electronic parking meters: <http://www.ipsgroupinc.com/parking-meters/>.

At a minimum, the Town should be looking at modifying or retrofitting our existing multi-space meters to make them more user friendly and function more efficiently.

#### ARTICLE 15

The purpose of this resolution is to urge the Brookline Parks and Recreation Commission to establish rules and regulations for the safe use of its parks and playgrounds by licensed group day care centers and/or private early education programs.

#### ARTICLE 16

This warrant article asks the Board of Selectmen and Moderator to schedule future Town Meetings in a way that will accommodate the greatest number of current and future Town Meeting Members.

This warrant article recognizes that there is a diversity of experience and perspective among Town Meeting members.

- Personal and professional responsibilities lead some Town Meeting Members to favor consolidating Town Meeting sessions on consecutive evenings.
- The same considerations lead other Town Meeting Members to find it easier to participate if there is a schedule of non-consecutive evenings.

In order to best meet the diverse needs of Town Meeting Members, this warrant article proposes an annual schedule that includes Town Meetings scheduled both ways. Since the Annual (spring) Town Meeting agenda tends to be more full and often runs for three or four evenings, it would be scheduled for non-consecutive evenings and occur over two weeks. The Fall Town Meeting, which can sometimes be completed in two sessions, would be held on consecutive evenings and could be expected to be completed in one week.

#### Historic Schedule – Advantages and Disadvantages

The historic Town Meeting schedule, meeting for consecutive evenings, has some advantages and some disadvantages. The advantages are:

- Consolidation of meetings in the calendar is easier for some to schedule.
- It is easier for Town Meeting Members who travel for business to participate.

The disadvantages are:

- The current schedule may discourage participation by a broader and more representative group of citizens. In particular, working parents of children appear under-represented by the current schedule.
- Senior citizens find it more difficult to participate.
- The current schedule does not allow time in between meetings for Town Meeting Members to caucus or negotiate informally between sessions.

#### Proposed Schedule – Feedback from One-Time Experiment in Spring 2011

In spring 2011, at the request of Town Meeting members, the Board of Selectmen and Moderator scheduled the Annual Town Meeting with non-consecutive sessions as a one-time experiment. This experiment provided the following data:

- Numerous Town Meeting Members, many who self-identified as parents of young children or people with full-time jobs, voiced enthusiasm for this schedule on the Town Meeting Member listserv.
- Some Town Meeting Members strongly prefer the traditional schedule of consecutive evenings.
- Some Town Meeting Members who prefer the traditional schedule acknowledged that it is important to schedule Town Meeting in a way that encourages participation from a diverse group of residents.
- The 2011 Annual Town Meeting included a warrant article with complex procedural issues (Article 19, on the Transportation Board review process). Having more time between sessions of Town Meeting allowed the interested parties to resolve numerous complex issues via email and telephone before the article came to Town Meeting. As a result, the discussion on the floor of Town Meeting was orderly and efficient, despite the complex procedural issues involved.
- Anecdotal evidence suggests that some prospective Town Meeting Members are discouraged from running for Town Meeting when it is scheduled on three consecutive evenings and would be more likely to run if the proposed schedule were adopted.

### Summary

Our town benefits when a wide variety of residents can participate in town governance. The greater the diversity of volunteers engaged in local government, the stronger our town will be. The proposed new schedule will encourage participation in Town Meeting from a wider variety of residents and make it easier for residents with a wide range of personal and professional situations to engage in this important form of public life.

### ARTICLE 17

Hopefully the Whereas clauses are self-explanatory. Though numerous civic leaders – *e.g.*, a state Representative, some former School Committee members, some TMM’s, and Brookline PAX – strenuously objected, the School Committee only slightly revised its former policy, now more firmly mandating at least weekly a purportedly “voluntary” classroom Pledge recitation. They cite no educational value, and held no public hearing to weigh community sentiment.

### ARTICLE 18

Although the federal government has passed legislation over the years regulating telephone solicitations, such legislation has exempted political candidates from following the wishes of consumers who have signed up with the National Do Not Call Registry. During recent election seasons—in particular the special election for senate that was held in December 2009 and January 2010—many residents of Massachusetts reported an excessive number of political robocalls coming from the campaigns of the various candidates. Political robocalls only serve to annoy the electorate and are mostly ineffective as a campaign tool. This article would ask candidates for state and federal offices running in Massachusetts to be judicious and sparing in their use of robocalls. It

would not affect the right of political campaigns to have volunteers or even candidates call up citizens personally to speak with them.

Summary: This article would ask all political candidates for state and federal offices running in Massachusetts to be judicious and sparing in the combined use of computerized autodialers and pre-recorded messages in political campaigns.

ARTICLE 19

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