



# MINUTES

## BOARD OF SELECTMEN

### IN BOARD OF SELECTMEN TUESDAY, OCTOBER 25, 2016 6<sup>th</sup> FLOOR HEARING ROOM

Present: Selectman Neil Wishinsky, Selectman Nancy Daly,  
Selectman Benjamin J. Franco, Selectman Nancy S.  
Heller, Selectman Bernard W. Greene

#### ANNOUNCEMENTS/UPDATES

Climate Action Committee member Deborah Rivers resigned as Chair. Member Werner Lohe was elected as the next co-chair. The Climate Action Committee has received approval of the community aggregation program from the State agency.

JFK's 100th birthday celebration will be held on May 29 2017. There will be celebration events.

Bill O'Donnell Norfolk County Registrar of Deeds will hold office hours at Town Hall on Thursday October 27th.

Early voting has started in numerous locations around town.

October 26<sup>th</sup> the Senior Center will hold their Autumn benefit; their major fundraiser of the year that provides important services.

#### PUBLIC COMMENT

Public Comment period for citizens who requested to speak to the Board regarding Town issues not on the Calendar.

*Up to fifteen minutes for public comment on matters not appearing on this Calendar shall be scheduled each meeting. Persons wishing to speak may sign up in advance beginning on the Friday preceding the meeting or may sign up in person at the meeting. Speakers will be taken up in the order they sign up. Advance registration is available by calling the Selectmen's office at 617-730-2211 or by e-mail at [SOsini@brooklinema.gov](mailto:SOsini@brooklinema.gov). The full Policy on Public Comment is available at <http://www.brooklinema.gov/376/Meeting-Policies>*

#### MISCELLANEOUS

Approval of miscellaneous items, licenses, vouchers, and contracts.

[Question of approving the Joint Meeting minutes of September 8, 2016.](#)

On motion it was,

Voted to approve the Joint Meeting minutes of September 8, 2016 as amended.

Question of approving the Joint Meeting minutes of September 22, 2016.

On motion it was,

Voted to approve the Joint Meeting minutes of September 22, 2016 as amended.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Question of approving the minutes of October 18, 2016.

These minutes were held.

CONTRACT

[Question of approving Contract No. PW/16-17 “Fiber Reinforced Rubberized Crack Sealing” to Sealcoating, Inc. for the purpose of applying Fiber Reinforced Rubberized Crack Seal at various locations throughout the town in the amount of \\$25,550.00.](#)

Director of Engineering Peter Ditto stated that this contract relates to roadway repairs.

On motion it was,

Voted to approve Contract No. PW/16-17 “Fiber Reinforced Rubberized Crack Sealing” to Sealcoating, Inc. for the purpose of applying Fiber Reinforced Rubberized Crack Seal at various locations throughout the town in the amount of \$25,550.00.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

CONTRACT AMENDMENT

[Question of approving a Contract Amendment in the amount of \\$294,998.00 for the preparation of the Brookline 9<sup>th</sup> Elementary School Feasibility Study by Jonathan Levi Architects, LLC in connection with the 9<sup>th</sup> Elementary School Project.](#)

- a. Question of establishing a 9<sup>th</sup> School Project Oversight Committee and appointing a member of the Board of Selectmen to serve on the Committee.

Project Manager Ray Masak stated that this relates to the Baldwin School site.

Selectman Daly asked if the student size should be considered first. Mr. Masak replied that will be part of the feasibility study.

Selectman Daly will sit on the Oversight Committee.

On motion it was,

Voted to approve a Contract Amendment in the amount of \$294,998.00 for the preparation of the Brookline 9th Elementary School Feasibility Study by Jonathan Levi Architects, LLC in connection with the 9th Elementary School Project.

Voted to establish a 9th School Project Oversight Committee and appoint Selectman Daly as member of the Board of Selectmen to serve on the Committee.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene.

[POSTPONED Question of appointing the following citizens to assist the Police Chief with the biennial assessment and report on the Citizen Complaint Policy:](#)

#### TEMPORARY WINE AND MALT ALCOHOLIC BEVERAGES LICENSE

[Question of granting a Temporary Wine and Malt Alcoholic Beverages License \(non-sale\) to Larz Anderson Auto Museum for an Annual Dinner to be held on Friday, October 28, 2016 from 5:30pm-11pm at 15 Newton Street.](#)

On motion it was,

Voted to grant a Temporary Wine and Malt Alcoholic Beverages License (non-sale) to Larz Anderson Auto Museum for an Annual Dinner to be held on Friday, October 28, 2016 from 5:30pm-11pm at 15 Newton Street.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

#### TEMPORARY WINE AND MALT ALCOHOLIC BEVERAGES SALES LICENSE

Question of granting a Temporary Wine and Malt Alcoholic Beverages Sales License for an Autumn Benefit Cocktail Party to The Brookline Senior Center to be held on October 26, 2016 from 5:30pm-9:30pm at 193 Winchester Street.

On motion it was,

Voted to grant a Temporary Wine and Malt Alcoholic Beverages Sales License for an Autumn Benefit Cocktail Party to The Brookline Senior Center to be held on October 26, 2016 from 5:30pm-9:30pm at 193 Winchester Street.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

## CALENDAR

Review and potential vote on Calendar Items

### BROOKLINE POET LAUREATE

Brookline Poet Laureate Jan Schreiber appeared to provide an update on activities.

Poet Laureate Jan Schreiber announced an event at the Main Library that will include poetry and music.

Selectman Greene noted that Mr. Schreiber made a great contribution at the MLK celebration event last year. It was an enjoyable and enlightening presentation.

Mr. Schreiber read a poem he wrote this summer.

The Board thanked him for the update.

### PLANNING & COMMUNITY DEVELOPMENT – PERSONNEL

Question of authorizing the filling of the following vacancy in the Department of Planning & Community Development:

Community Planner – GN-11

Planning Director Alison Steinfeld stated that this position is available due to a recent retirement.

On motion it was,

Voted to authorize the filling of the following vacancy in the Department of Planning & Community Development:

Community Planner – GN-11

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

### COMPTROLLER'S OFFICE – PERSONNEL

Question of authorizing the filling of the following vacancies in the Comptroller's Office:

(2) Senior Audit Clerk – C-6

Town Comptroller Michael DiPietro stated that these positions are available due to a recent retirement and a promotion.

On motion it was,

Voted to authorize the filling of the following vacancies in the Comptroller's Office:

(2) Senior Audit Clerk – C-6

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

#### BOARDS AND COMMISSIONS – APPOINTMENTS

Question of making appointments/reappointments to the Economic Development Advisory Board.

On motion it was,

Voted to reappoint Thomas Nally to the Economic Development Advisory Board (EDAB) for a term ending August 31, 2019 or until a successor can be appointed.

Voted to reappoint Kenneth Lewis to the Economic Development Advisory Board (EDAB) for a term ending August 31, 2019 or until a successor can be appointed.

Voted to reappoint Donald Warner to the Economic Development Advisory Board (EDAB) for a term ending August 31, 2019 or until a successor can be appointed.

Voted to reappoint Marilyn Newman to the Economic Development Advisory Board (EDAB) for a term ending August 31, 2019 or until a successor can be appointed.

Voted to appoint Alan Christ to the Economic Development Advisory Board (EDAB) for a term ending August 31, 2019 or until a successor can be appointed.

The Board noted that Dr. Bob Sperber will not be seeking reappointment. He has served the Town in numerous capacities for many years, notably on EDAB and as the School Superintendent.

#### WARRANT ARTICLES

Further review and final vote on the following Warrant Articles for the November 15, 2016

Special Town Meeting:

- 7 Emerald Island Special District
- 8 Emerald Island Special District Alternative
- 9 PILOT 25 Washington

- a. Question of voting to approve the Tax Certainty Agreement related to the proposed development at 25 Washington Street.

10 Future Agreements 25 Washington

- a. Question of voting to approve and execute the Memorandum of Agreement By and Between the Town of Brookline and Claremont Brookline Avenue, LLC related to the proposed development at 25 Washington Street, such execution to be subject by an affirmation vote at Town Meeting on Article 10, or any amendments thereto.

- 11 Sidewalk Resolution 25 Washington
- 19 Transit Parking Overlay District
- 22 FAR
- 34 Resolution Affordable Housing using Air Rights over Town Lot
- 32 Resolution Town Counsel funding for 40B Housing Appeals
- 17 Zoning By-Law EV Charging Stations
- 18 Resolution State Code for EV Charging Stations
- 31 Town Meeting Committee and OML
  - 5 Sustainable Food Containers
  - 6 Plastic Bags
  - 3 Budget Amendments

Article 7                      Emerald Island Special District

Chairman Wishinsky stated that he went out and measured the sidewalks coming into Brookline in this location. The sidewalk under the Rt. 9 overpass continues to the bike path crossing River Road. The sidewalk there is less than 8 feet. The proposal in Article 7 zoning asks for a minimum of 8 feet, which would decrease the sidewalk width from 10 feet to 8 feet in certain areas, and would require Planning Board approval.

Selectman Franco added that this is a minimum width; the average width in the area would be 10ft.8in. He added that the River Road Committee (RRC) recommends a robust tree canopy in the River Road and Washington Street area to create a welcoming transition into Brookline.

Chairman Wishinsky noted that the RRC pushed back as much as they could and came to a conclusion that they felt was the best outcome they could get while maintaining a financially feasible project.

The Board noted that this project would bring in significant tax revenues and benefits to the Town, and is aware that any significant revisions to the proposal could prompt a 40b application; losing all those benefits.

Selectman Daly added that 40b developments could grossly override our zoning regulations and receive state financing to do it. In addressing trees in the area, this would go through the design review process.

On motion it was,

Voted 5-0 Favorable Action on Article 7 as submitted.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 8            Emerald Island Special District Alternative

On motion it was,

Voted 5-0 No Action on Article 8

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 9                    PILOT 25 Washington

The Board noted that the agreement would secure a tax certainty on this property for 95 years.

On motion it was,

Voted 5-0 Favorable Action on Article 9.

Voted to approve the Tax Certainty Agreement between the Town of Brookline and Claremont Brookline Avenue LLC.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 10            Future Agreements

Chairman Wishinsky stated that this agreement provides certain protections and sets out the relationship between the Town and Claremont; including environmental protections, mitigation payments, certainty and penalties.

On motion it was,

Voted 5-0 Favorable Action on article 10 as submitted.

Voted to approve and execute the Memorandum of Agreement between the Town of Brookline and Claremont Brookline Avenue LLC, subject to ratification by Town Meeting.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 11                      Sidewalk Resolution

The Board noted that the zoning provisions sets forth certain parameters and the Planning Board will continue pushing to make this project as attractive as it can be, including a sidewalk as wide as it can be.

On motion it was,

Voted 5-0 No Action on Article 11.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 19                      Transit Parking Overlay District

Article 19 would create a parking overlay district that would lower off-street parking requirements for residential housing that is located within a half mile of public transit.

The Planning & Regulatory Subcommittee (RRS) recommends favorable action on an amended version of Article 19. The parking ratios they are recommending are as follows:

Units

Studio – 1.0

1 BR – 1.5

2 BR – 2.0

≥3-BR - 2.0 (This is the only ratio that differs from that of the Moderator's Committee on Parking, which was 2.3)

Warrant Article as submitted:

Units

Studio                      0.5

1-BR                        0.8

2-BR                        1.1

≥3-BR                      1.5 or 1.9

Chairman Wishinsky stated that he has reviewed the parking requirement revision submitted by

the Planning & Regulatory Subcommittee, and supports it with the exception of reducing their recommendation for a 1 bedroom from 1.5 parking spaces to 1.4, adding that every action has a reaction, and unless we fully understand the reaction we should be careful and considerate.

Petitioner Scott Englander said that he would not rule out the possibility of some kind of compromise. He added that he has not been able to draw direct lines between the moderator's recommendation and the data. Should the Selectmen consider moving on the 1.5 to 1.4, 1.4 would be rounded down.

Deputy Building Commissioner Mike Yanovitch added that the Building Department would consider anything that touches the arc of the half mile radius would be included in the reduced parking requirement.

Selectman Daly expressed concerns that lower parking requirements may limit spaces needed for guests, etc. Also, not everyone that lives in a studio apartment takes public transit to work. She recommends studio units be set at 0.75, a compromise between the Article as submitted and the RRS recommendation.

Selectman Heller stated that we ought to be thinking carefully what other areas in the Zoning Bylaws this may affect. She feels more time is needed to address issues of open space, acknowledging that a parking lot is not green space, but at least it is open and better than a building. She offered a timeline of September 15, 2018 to allow time to review any possible implications, and give the Town time to reach its 40B threshold as set forth in the housing production plan. Reduced parking requirements allow developers to add more units into a space that could have been reserved for parking.

Mr. Englander replied that the 40b denominator only changes every ten years. To address the open space concern, setbacks and height restrictions on a typical project would reduce parking requirements, and may increase studios and 1 bedroom units; he doesn't see that as a huge issue. You have to consider the positive benefits and negative impacts.

Selectman Daly offered the following motion:

Favorable Action On Article 19 with the following revisions:

<u>Unit</u>	
Studio	0.75
1-BR	1.4
2-BR	2
≥3-BR	2

On motion it was,  
Voted Favorable Action 2-3 Motion failed.  
Aye: Daly, Franco  
Nay: Wishinsky, Heller, Greene

Chairman Wishinsky made a motion on Article 19 with the following revisions:

Units

Studio	1
1-BR	1.4
2-BR	2
≥3-BR	2

On motion it was

Voted 5-0 favorable Action on Chairman Wishinsky's revisions.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 22      FAR

Article 22 relates to FAR (floor area ratio) of new single family homes, and addresses the practice of newly developed homes with oversized basements and attics that can easily be converted into habitable space exceeding the allowable FAR.

Polly Selkoe, Director of Regulatory Planning stated that the Planning Board has recommended that this be referred back to the moderators committee for further review, because it is a complex and lengthy bylaw. Another option for the Committee to consider is that before the language allowing conversions of basement and attics up to 150% by-right was added to the zoning, the By-law allowed interior conversions up to 130% with a special permit, and this included conversions of basements and attics. The Planning Bard is not sure that is the correct percentage.

Selectman Daly noted a concern relating to the Building Commissioner's ability to administer these revisions.

Deputy Building Commissioner Mike Yanovitch stated that the Building Department needs something new in the Bylaw that they can enforce; they can deal with the workload, it is the enforcement that is an issue. Some of the language in this Article is difficult to understand and is open to broad interpretation which would result in some gray areas to decipher.

One reference is the term "sustainably satisfies" the requirements, which he feels this is open to broad interpretation allowing developers to manipulate the Bylaw.

The Board asked if he has substitute language that the Building Department would prefer.

Mr. Yanovitch replied that would involve the Article's intention; if it were better defined it would make it much earlier when developers come in.

Petitioner Richard Benka stated that this language was carefully considered and discussed with the intent of eliminating the gaming of the system.

The Board noted that this subject has been to committee a few times, and perhaps a full overhaul of the Zoning Bylaw should be considered; it would be a lengthy process, but would include clear and solid language.

There was no vote on this Article.

Article 34            Resolution Affordable Housing using Air Rights over Town Lot.

Article 34 is a resolution that supports the review of an affordable senior housing development over a town-owned parking lot.

Chairman Wishinsky noted that the petitioner outlined that should this resolution pass at Town Meeting the next step would be to set up a committee that would craft an RFP.

Selectman Daly offered a revision to the Therefore be it resolved paragraph as follows:

THEREFORE, be it resolved, that Town Meeting urges the Board of Selectmen, the Planning Board and the Housing Advisory Board to ~~pursue~~ “**develop a proposal for**” a suitable air rights development of age-restricted affordable, mixed-income housing over the existing Town-owned parking lot in Brookline Village situated between Kent and Station Streets across from the Brookline Village MBTA station (Parcel No. 140-05-00);

On motion it was,

Voted 5-0 Favorable Action on Selectmen Daly’s revision.

THAT THE TOWN WILL ADOPT THE FOLLOWING RESOLUTION:

Whereas, the Town of Brookline has committed to taking meaningful actions toward becoming a more age-friendly community;

Whereas, the aging of the baby boom population cohort has created a need for a substantial expansion of Brookline’s supply of housing for seniors;

Whereas, Brookline’s need for more affordable housing for seniors with low and moderate incomes is already acute;

Whereas, senior citizens benefit from living within walking distance of public transit, services, shopping, and cultural resources;

Whereas, Brookline Village is a pedestrian friendly location that meets the living needs of seniors, including those who do not own an automobile;

Whereas, the Town's municipally-owned parking lots offer an opportunity for attractive air rights development of senior housing, including for low and moderate income households; and

Whereas, the public process leading to the Town's Housing Production Plan identified Town-owned municipal parking lots, including the Town-owned site situated between Station and Kent Streets in Brookline Village as a suitable location for affordable senior housing development;

THEREFORE, be it resolved, that Town Meeting urges the Board of Selectmen, the Planning Board and the Housing Advisory Board to ~~pursue~~ **“develop a proposal for”** a suitable air rights development of age-restricted affordable, mixed-income housing over the existing Town-owned parking lot in Brookline Village situated between Kent and Station Streets across from the Brookline Village MBTA station (Parcel No. 140-05-00);

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 32      Resolution Town Counsel funding 40B Housing

Selectman Daly stated that Town Counsel's office looks at various proposals and makes a decision where spending money makes sense.

Chairman Wishinsky added that the 40B process involves a level of negotiation and may become a project we can live with. This Article presents some absolute language; we have to make a legal, planning and political judgment on when and how to fight a proposal.

The Board supported the revision submitted by Selectman Greene which removes the second therefore resolved clause and adds the following:

“Now, therefore, be it resolved that Town Meeting supports Town Counsel's efforts to defend diligently the Town's interests before the Housing Appeals Committee or other forums to ensure that 40B housing developments are appropriate to the local community and the Town.

On motion it was,

Voted 5-0 favorable Action on the revised Article 32.

That the Town Will Adopt the Following Resolution:

Whereas, the Town of Brookline supports the provision of affordable housing and has expended significant resources to expand housing opportunities for vulnerable populations, through the Brookline Housing Authority public housing, the Affordable Housing Trust Fund, the

Community Development Block Grants, and the Inclusionary Zoning By-Law;

Whereas, M.G.L. Chapter 40B mandates specific levels of affordable housing in Massachusetts cities and towns. Municipalities deemed deficient in such housing are subject to penalties, which can be remedied by public or private measures;

Whereas, M.G.L. Chapter 40B enables Applicants for construction or conversion of housing with at least 20% affordable units to request waivers of the Town's Zoning By-Laws, by applying for a Comprehensive Permit;

Whereas, four Comprehensive Permit applications, proposing a total of 352 housing units, were submitted to the Zoning Board of Appeals in April and May 2016;

Whereas, three additional Comprehensive Permit applications, proposing a total of 269 housing units, are anticipated by the Zoning Board of Appeals before October 2016;

Whereas, the unprecedented number of recent Comprehensive Permit applications and the unprecedented scale of most proposed developments come as the Town approaches its state-mandated level of affordable units;

Whereas, the sheer number of recent Comprehensive Permit applications threatens to overwhelm the Town's resources;

Whereas, we commend the Planning Department, Zoning Board of Appeals and other Town Boards and Departments for their extraordinary efforts in reviewing these current and anticipated applications;

Whereas, the Zoning Board of Appeals is mandated to review each Comprehensive Permit Application within 180 days, a period whose brevity often aborts the Board's success in mitigating all of its Local Concerns: environment, health, safety, open space, planning and design;

Whereas, the Zoning Board of Appeals attempts to protect Local Concerns by imposing conditions on Comprehensive Permits;

Whereas, Applicants' legal appeals to the Massachusetts Housing Appeals Committee can blunt or negate these conditions on Comprehensive Permits;

Whereas, the Housing Appeals Committee hearing process is time-sensitive and the issues complex;

Whereas, the Town now faces up to seven simultaneous appeals, whose demands can easily overwhelm the intellectual and budgetary resources of Town Counsel;

Whereas, it is Town Meeting's duty to represent and sustain the best interests of the Town's citizens and the Town in its entirety;

Whereas, Town Meeting necessarily expects the Town to support the Zoning Board of Appeals in its decisions and conditions on Comprehensive Permits;

**Now, therefore, be it resolved that Town Meeting supports Town Counsel's efforts to defend diligently the Town's interests before the Housing Appeals Committee or other forums to ensure that 40B housing developments are appropriate to the local community and the Town.**

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 17                    Zoning By-Law EV Charging Stations

Article 17 would require at least 2% of parking spaces be equipped for electrical vehicle parking with a Level 2 or a level 3 charger of at least 5kW capacity.

The Board previously expressed concerns on what would trigger this bylaw into effect.

Chairman Wishinsky asked if upgrading an electrical panel would trigger this.

Deputy Building Commissioner Mike Yanovitch replied it could. He is concerned with our local zoning crossing over into State code.

Selectman Heller added that the Climate Action Committee had some concerns relating to the broad use of "parking spaces" which could include single and multifamily homes, apartment buildings, daycares and supermarket lots. Also, any alterations of existing parking lot or garage could trigger this bylaw at a significant cost to the property owner.

Selectman Heller added that the Climate Action Committee is supportive of the concept , but has concerns about the interpretation, and the fact that non-profit organizations could be required to comply.

On motion it was,

Voted 5-0 Favorable Action to refer Article 17 to the Climate Action Committee.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 18                    Resolution State Code for EV Charging Stations

The Board asked Deputy Building Commissioner Mike Yanovitch to speak on this Article.

Mr. Yanovitch said that Article 18 is the horse and Article 17 is the cart. There is a method to

achieve the goal of the Article, but he is not sure zoning is the best way. Article 18 asks the Selectmen to allow specific equipment to be installed, and in order to do so must petition the State to allow Brookline to have a more stringent law than the State does; it can be done, but it is a process, and would need to be done before Article 17 could be adopted. This is on the State's agenda to attack and get into the stretch code and there is a method to doing that. At this time it is premature at the State level.

Chairman Wishinsky added that he is supportive of the concept, but recommends the petitioner work with the Building Department on a number of triggers that would require the installation of the proposed electric vehicle equipment.

Selectman Daly added that she has a concrete slab for a driveway. If she decides to add on to her home at some point, she would be required to install an electric vehicle outlet, even though she has no power source in that area. This would come at a significant cost.

Petitioner Scott Ananian said that the Article is setting a goal as a Town for future technology. He added that the petition with the code at the State level can be pursued.

Selectman Heller added that the Climate Action Committee supports referring this Article to the Climate Action Committee for further study so that the Town can devise regulations that effectively support climate action goals and can be applied fairly among stakeholder, without incurring unnecessary burdens that could undermine these goals.

On motion it was,

Voted 5-0 Favorable Action to refer Article 18 to the Climate Action Committee.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

#### Article 31            Town Meeting Committee and OML

Article 31 would have all municipal committees subject to the Open Meeting Law. As the current law stands, committees appointed by the Moderator (Town Meeting) are not governed by the OML.

Chairman Wishinsky noted that he is in agreement with the Advisory Committee's recommendation on Article 31.

Petitioner Regina Frawley said that she was never before the Advisory Committee to present her Article; therefore the Advisory Committee will be reconsidering their vote after she presents it. She added that Town Counsel's language codifies the existing process; the Advisory Committee's recommendation reflects the current process. She feels language needs to be spelled out and not assumed when referring to the Open Meeting Law (OML). She reviewed an instance where a committee did not follow the OML which prompted this Article's submittal.

Selectman Daly added that it is unfortunate that one committee did not follow the OML. There are dozens of committees and most try to act in good faith. Town Counsel can't be expected to track down and monitor complaints.

Ms. Frawley said there have been 5 OML complaints in 2 years.

Selectman Greene stated that that shows there is not a real problem here. He added that these are volunteers and citizens of the Town and feels there is no need to burden them for their civic duty. There were a couple of errors made, isn't that part of the imperfection of life.

Chairman Wishinsky added that he expects committees to comply with the Open Meeting Law.

Mr. Frawley added why should some committees be held to the OML, and others not.

On motion it was,

Voted 5-0 Favorable Action 5-0 on Article 31 as recommended by the Advisory Committee.

RESOLVED: That committees that are established pursuant to a vote of Town Meeting and therefore are not considered by the Attorney General to be "Public Bodies" under the Open Meeting law shall conduct their meetings in a manner that is consistent with the provisions and intent of the Open Meeting law.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

#### Article 5

#### Sustainable Food Containers

The petitioners withdrew this Article. The Board made no recommendation.

#### Article 6

#### Plastic Bags

Petitioner Clint Richmond submitted a revised Article. He presented a plastic bag with a width that is acceptable under the current bylaw; this Article would make its weight noncompliance. He also presented a "product bag" used for fruit and meat.

The Board discussed the material of the product bag which as presented would not be allowed because it is not marine degradable. The product bags can be either paper or compostable, however they do cost 4 times more than the bags currently used.

The Board discussed the limited resources merchants would have to comply with this bylaw.

Selectman Daly made a motion to strike "as well as marine degradable" in section 8.33.2. Currently you are offering an option that doesn't exist since there is not a product available at

this time that falls under this category.

Selectman Daly also addressed the enforcement. She anticipates that this would have to be a complaint driven regime. The Health Department does not have the resources to monitor this full time.

Chairman Wishinsky said he would like to hear from the merchants on how much of a hardship they feel this would be on their business.

On motion it was,

Voted Favorable Action 2-3 Motion Failed

to strike “as well as marine degradable” in section 8.33.2

Aye: Daly, Heller

Nay: Wishinsky, Franco, Greene

On motion it was,

Voted 5-0 No Action on Article 6

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

### Article 3                      Budget Amendments

Deputy Town Administrator Melissa Goff stated that the Group Health account reflect a surplus due to school department new hires choosing less expensive plans than projected. She recommended that this surplus remain in the Group Health budget.

Town Administrator Mel Kleckner noted that they had to put significant funds into Collective Bargaining due to the Fire Department’s bargaining union. To make up for some budget shortfalls, he recommended eliminating one person in the Fire Department budget; this presented a funding challenge that had to be addressed.

On motion it was,

Voted 5-0 Favorable Action on Article 3

VOTED:                      That the Town:

1. Amend the FY2017 budget as shown below and in the attached Amended Tables I and II:

ITEM #	ORIGINAL BUDGET	PROPOSED CHANGE	AMENDED BUDGET
20. Collective Bargaining – Town	\$2,921,346	\$191,882	\$3,113,228
11. Fire Department	\$13,014,196	(\$131,896)	\$12,882,300
22. School Department	\$101,058,795	\$59,986	\$101,118,781

2. Appropriate \$340,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Singletree tank improvements.
3. Appropriate \$320,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Singletree Hill Gatehouse improvements.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

WARRANT ARTICLES

Question of reconsidering the Board’s vote on the following Warrant Articles for the November 15, 2016 Special Town Meeting:

- Article 2 Collective Bargaining
- Article 15 Solicitation Content Neutrality
- Article 16 Resolution Town Responsibility EV Charging Stations
- Article 23 Consolidated Leaf Blower By-Law
- Article 24 Resolution Leaf Blower Control Officer
- Article 33 Resolution Senior Tax Relief Study Committee

Article 2                      Collective Bargaining

Deputy Town Administrator Melissa Goff stated that the School Traffic Union has been removed from Article 2 due to a union challenge. The Library AFSCME union has come to a bargaining agreement.

On motion it was,

Voted 5-0 to reconsider Article.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

On motion it was,

Voted 5-0 Favorable Action on Article 2 as revised to include the Library AFSCME and Fire Union contracts.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 15                      Solicitation Content Neutrality

Deputy Town Administrator Melissa Goff stated the Advisory Committee has changed the Title language. The Board held this Article for review of that revision.

There was no vote on Article 15.

Article 16                      Resolution Town Responsibility EV Charging Stations

The Advisory Committee offered a revision to Article 16 pertaining to charging a reasonable fee at municipal charging stations.

The Board did not offer a reconsideration motion on Article 16.

Article 23                      Consolidated Leaf Blower By-Law

The Board did not make a motion for reconsideration at this time.

Article 24                      Resolution Leaf Blower Control Officer

The Board did not make a motion for reconsideration at this time.

Article 33                      Resolution Senior Tax Relief Study Committee

The Board reviewed the Advisory Committees recommendation and made the following revision as submitted by Selectman Franco, with the addition of a first whereas clause.

THAT THE TOWN WILL ADOPT THE FOLLOWING RESOLUTION:

**Whereas the Town of Brookline has a long history of recognizing our common responsibility to care for deserving members of the community including but not limited**

**to our veterans, our residents who are visually impaired or have other disabilities, our children, and our seniors.**

Whereas addressing the needs of Brookline's growing school population has resulted in one tax override within the last two years and may well result in two to three additional tax overrides during the next ten years;

Whereas Brookline's rapidly increasing property taxes are creating growing hardships for hundreds of Brookline's seniors with modest incomes who have owned and lived in their Brookline home for decades;

Whereas many of Brookline's senior homeowners with modest incomes no longer qualify for the Massachusetts Circuit Breaker Income Tax Credit because of Brookline's escalating residential real estate values during recent years and the declining residential real estate values in the western part of Massachusetts during the same time period;

Whereas Brookline's existing programs to provide tax relief to senior homeowners are not meeting the needs of many of Brookline's senior homeowners with modest incomes;

Whereas certain neighboring communities such as Sudbury and Newton currently offer innovative and more generous programs to their senior homeowners with modest incomes than does Brookline;

THEREFORE, be it resolved, that Town Meeting urges the Board of Selectmen to establish a committee to study property tax relief programs that other Massachusetts communities (including but not limited to Sudbury and Newton) offer to senior homeowners with modest incomes, and to make policy recommendations and propose warrant articles for comparable new programs for Brookline and improvements to Brookline's existing senior homeowner property tax relief programs; and

Be it further resolved that said committee will first convene not later than February 1, 2017 and provide to the Board of Selectmen not later than August 15, 2017 a report, policy recommendations, and proposed warrant articles for consideration by the November 2017 Town Meeting;

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

There being no further business, the Chair adjourned the meeting at 10:40 p.m.

ATTEST