



Brookline PAX
think globally • act locally

www.BrooklinePAX.org

Marty Rosenthal, Chair; Neil Gordon, Secretary;
Gary Jones, Treasurer; Judith Vanderkay, Assistant Treasurer
Brookline PAX was founded in 1962

Brookline PAX Recommendations Special Town Meetings, Fall, 2020

WA 2 – Approval of Union Contracts – FAVORABLE ACTION - The Town has a memorandum of agreement with its Police Union for a retroactive (to expiration of the prior contract) 2½% (already budgeted) raise, and agreement to advance negotiations for body cams, which PAX has long pushed. We thank the Police Union and the Select Board!

WA 7 – Affordable Housing Requirements - FAVORABLE ACTION - This bylaw, proposed by the Housing Advisory Board, commendably tweaks affordable housing requirements of our Inclusionary Zoning Bylaw (created, along with HAB, by PAX leaders in the 1980's) for new projects. It modestly but helpfully increases affordable units directly, and/or indirectly through contributions to the affordable housing trust fund.

WA 8 –Membership of HAB- FAVORABLE ACTION ON O'NEAL AMENDMENT FOR 10 FULL MEMBERS, THEN (REGARDLESS), FAVORABLE ACTION - In addition to expanding the number of **Housing Advisory Board** members, this Article proposes an increase in the number who have directly experienced housing stress. It's a modest, appropriate change that, overall, is widely supported. we commend both the petitioners and HAB for reaching considerable consensus, including (we welcome) deleting term limits, which we generally disfavor. PAX supports (PAX Board Member) Donelle O'Neal's expansion to ten full members, rather than nine plus alternate. We were not persuaded that nine is a magic number, or that ten will cause quorum issues. If either proves true, it's easy to fix by tweaking back the bylaw next year.

WAs 9-11 – Short-term Rentals – NO RECOMMENDATION - Short stays, like those booked through Airbnb, are currently illegal in Brookline, but flourish, anyway -- in many cases even whole buildings, as a full time business. The proposed bylaws add a structure of regulation and, importantly, inspection, but we question whether sufficient enforcement will happen.. We're further concerned that short-term rentals can take our most-affordable housing (i.e., single rooms) off the market. on the other hand, renting an extra room short-term from time to time can help make housing more affordable for those struggling to make ends meet. It's hard to know if the pros outweigh the cons, or vice versa, and we see no clear-cut marginal impact on any PAX values; so we make no recommendation.

WA 12 – Community Preservation Act - FAVORABLE ACTION – Adoption (including voter approval) will add a 1% real estate tax surcharge, to be used, along with matching funds -- from the state! -- that are only provided if we adopt this, for use to preserve open space, historic resources, recreation, and community housing. It's been proposed before in Brookline, with PAX support, but

at a higher percentage that was rejected by the voters. This more modest proposal better balances affordability with the Town's pressing need for targeted funding.

WA 13 – Senior Property Tax Exemption – NO ACTION ON SELECT BOARD AMENDMENT, THEN (REGARDLESS) FAVORABLE ACTION, preferring ADVISORY COMMITTEE motion - (Petitioned by PAX Board Member Susan Granoff, TMM7, Chair of and for the Moderator's Committee on Elderly Tax Relief) A home rule petition (state legislative approval required) to allow real estate tax credits to eligible low-income seniors. If adopted by the legislature, Brookline could grant up to \$4,000 in annual tax relief to eligible seniors. The aggregate tax burden would be redistributed across the tax base, and would be revenue neutral to the Town. Tax credits would be limited to those especially in need, and, in particular, to those who don't qualify for the current tax-deferral program. We find the otherwise sincere (majority of the) Select Board objections to be exaggerated and unsympathetic to a legitimate problem, especially for some longtime town residents, and also unsupportive of the Moderator's Committee, which worked diligently, produced an amazing Report (included at the end of Combined Reports), and merits considerable deference. (Atypically, we – along with petitioners -- prefer the Advisory Committee motion.

WA 14 – Tobacco Control – NO ACTION –Narrower than the proposal in the Warrant, the motion would slowly increase the legal age for tobacco purchase from the current 21 years -- in a year to 22, in two years, 23, etc. This largely symbolic change would have little effect on tobacco use; and it ignores the reality that many Brookline tobacco sellers are immigrants operating gas stations and convenience stores. And, while protecting youths from themselves seems appropriate, after age 21 it seems basically anti-libertarian overreaching -- very much like our century long (non-liquid) *Drugs War* on victimless (except themselves) crimes. At some point, protecting grown-ups from themselves seems to us patronizing statism.

WA 15 – Increase Disadvantaged (i.e., minority and women owned) Business Opportunity – FAVORABLE ACTION ON REFERRAL to SELECT BOARD - As proposed, an amendment to several bylaws, to increase support of such businesses contracting with the Town. There's broad consensus that this is an important subject; and that the Article's not quite ready for prime time, but surely worthy of study.

WA 16 – Recall of Elected Officials – IF MOVED, REFERRAL TO CTOS, then, if not referred, NO ACTION - Conceptually simple (and welcome), but otherwise complicated. After several CTOS hearings and meetings (PAX Chair Marty R. being a member), and several alternative iterations, petitioner has said she'd not move this Article. However, should it be moved by anyone else (and we urge not), we strongly recommend referral, for much needed public input and further study. WA 16 as published is far too broad -- indeed limitless (unlike its explanation, "intended for use in only the most grievous of circumstances"); and some on CTOS would limit recall grounds to actual, serious *crimes*. Gordon/Rosenthal proposed a compromise, adding far broader criteria to petitioner's lack thereof, but with a (pretty low) *gatekeeper* proposal that addresses legitimate CTOS concerns that some of the broader criteria (like "a crime involving *moral turpitude*") are, while better than WA16 as proposed, still too subjective.

WA 17 – Election Day Signs – FAVORABLE ACTION (Petitioned by PAX Secretary Neil Gordon, TMM1) – Currently, the Town's sign bylaw prohibits the posting of signs at the polls on Election Day, despite current custom. This bylaw amendment codifies the long-practiced exception, precluding arbitrary, perhaps partisan, enforcement.

WA 18 – Resolution on Ranked Choice Voting – FAVORABLE ACTION ON THE ADVISORY COMMITTEE MOTION: Statewide, voters rejected RCV, but it was overwhelmingly favored (70%) in Brookline. As we wrote for Question 2, “The 4th District primary result made a mockery of our district’s values, ergo of ‘democracy.’” The AC’s version of this resolution calls for studying RCV for our local elections, including whether voting machines we’re likely to purchase anyway should be compatible. Petitioner’s version skips that important step. For that reason, we favor the AC version, and merely for studying what new machines we buy . And we support WA18 either way.

WAs 19-20 – Change to Appointed Town Clerk – NO RECOMMENDATION - In a long and nuanced discussion, we felt we’d would naturally default to letting voters decide their officials whenever practicable; but in this case, heart and head pull us in opposite directions. As per the excellent CTOS report, the Clerk’s position has evolved; it’s less (but still importantly) about policy and values, but more about having an experienced, competent department head. While emotionally we like the status quo, which some feel also adds valued independence from our executive branch, we also recognize that the best, willing, qualified candidate for this critical role may not be a Brookline voter, And we have great regard and appreciation for longtime Assistant Clerk Linda Golburgh, as well as Jeffrey Nutting (assisting in Pat Ward’s absence) -- both of whom endorse these articles. We note that if Town Meeting votes Favorable Action, the decision will later be made by the voters -- by a May ’21 ballot question; and some pro-changers see big irony in precluding voters from deciding whether they themselves want to keep deciding on this officeholder. Feeling that both sides of the argument were PAX values, we await with curiosity the Town Meeting vote.

WA 21 – Restrict Non-disclosure Agreements (NDA’s) – FAVORABLE ACTION ON THE MUCH AMENDED ADVISORY COMMITTEE MOTION - Petitioner appeals to “politically correct” *transparency*, citing Justice Brandeis’ “sunlight is the best disinfectant” -- to which we retort from HL Mencken, “*there's always a well-known solution to every human problem — neat, plausible, & wrong.*” Many, obviously not all, plaintiffs’ lawyers oppose banning NDA’s, which often facilitate far better compensation and far less need to litigate. We’ve twice recommended NO ACTION on nearly identical warrant articles; here’s what we said re the 2019 one:

Art. 17, Ban non-disclosure agreements by Town - NO ACTION - PAX is very sympathetic to both “*transparency*” in general and the most-welcome Me Too movement. But this proposal, is a solution in search for an exaggerated or non-existent problem. Two-thirds of petitioners’ reasons (2019 Combined Reports, p. 17-4, “DISCUSSION ...”) are especially unsupported and dubious: “more effective deterrence” and “sound fiscal management.” The many negative ramifications are summarized in the S-Bd ’s and A/C’s Combined Reports, such as: some re-victimizing of victims by diminishing their compensation; as well as some that would be costly and/or otherwise harmful to the Town, including complications from privacy laws. And, while we appreciate Jonathon Margolis’ proposal trying to address the above “re-victimizing” concern, ... it too still seems problematic, e.g., an unintentionally disingenuous *Kabuki Dance*: Does “shall not propose or require, ... ” mean that Town Counsel cannot offer \$xxx to settle, and also write or say, “we refer you to (attached) by-law §3.1.3”? Should they add, “*hint, hint*”; or if in person do a *wink-wink*? And, if they don’t, what if a claimant is *pro se* or represented by an un-stellar lawyer? (Yes, they exist, as does gambling in Casablanca.) They are the most likely victims of this, getting less compensation

It takes two to settle, and if both sides agree, we should presume that both sides benefit. If NDA’s are not per se bad, then why not -- explicitly & transparently -- keep giving claimants

the choice? If a (we believe rare) claimant (after knowing of the option) prefers no NDA, & likely less cash, they can always say so; but a fully aware “opt-out” seems the fairer & less disingenuous way to let them really choose. Putting the onus on claimants to bring it up seems both risky (to some of them) and, essentially, forced game-playing by the Town.

WAs 22-23 –Amend Bylaws to Change to Gender Neutral Pronouns –FAVORABLE ACTION - (Petitioned by PAX Board Members Michael Burstein, TMM8, and Neil Gordon, TMM1) - Brookline’s bylaws are no place for “he said; she said.” We prefer “they said; they said,” for a reason. Yes, it sounds funny. Get over it. Town Meeting passed a resolution several years ago to use gender-neutral terms, and we no longer have “Selectmen,” except some “ex-” ones. This bylaw change is a next, logical, and important step.

WAs 24-25 –Notification of Tenants in Addition to Property Owners – FAVORABLE ACTION (Petitioned by PAX Board Members Neil Gordon, TMM1, and Michael Zoorob) – This is long overdue community engagement! Adding tenants (including business tenants) to those receiving otherwise required notifications eliminates the archaic notion that owners are somehow more entitled than others. The Town has ready access to a list of nearly all housing units and business locations, and the cost of providing broader notice is modest.

WA 27 – Amend Zoning Bylaw to Allow Micro-units – FAVORABLE ACTION ON PETITIONERS’/SELECT BOARD’S MOTION - Hundreds in Brookline currently live in so-called “micro units” – relatively small apartments (500 sq ft or less), which had been allowed to be built here for decades. In 2016 Town Meeting– by all accounts unintentionally – banned the construction of such units (as well as housing for artists and housing for seniors) outside of an 8-parcel area near Longwood Medical Center. Ironically, just months earlier, the Town adopted a Housing Production Plan which, in part, called for developing micro units to grow the Town’s housing stock. Such units provide a useful and less expensive option for young professionals and seniors, among others. Hundreds exist from before they were (accidentally) banned. They also tend to be “greener,” using less energy in construction, heating/cooling, lighting, and living. Petitioner’s (again including PAX Board Member Michael Zoorob) motion re-allows these useful units in multifamily zoning districts, without giving them any special favors.

WA 28 – Require Fiscal Education of TMM’s – NO ACTION - PAX would 100% support voluntary education of TMM’s , fiscal and (at least equally) otherwise -- like Town Meeting traditions and procedures, civility and mutual respect, effective use of the TMMA listserv, roles of the AC, CTOS, and lots more. We’d support education of members of various boards, committees and commissions, too. We’d like all of those who freely give their time to be better versed on many such matters/issues . We’re concerned though that mandating education would further burden those TMMs, and potential candidates we’re trying so hard to attract, i.e., those with job/family/etc., commitments they need to balance. Nor do we see how one session every three years can teach anything meaningful, like what, that “ all Towns are limited by Prop 2½ and must have a balanced budget?” We already have considerable TMM education, albeit informal, including mentorship of new TMMs, precinct-level Warrant reviews, and, humbly, PAX recommendations. Article 28 is well-intentioned; but (a) seems unrealistically change-making (limited education vs. the Town’s very complex fiscal issues); and (b) smacks of well-intentioned “Big Sibling”-ism that “trumps” the voters confidence in their TMM’s Even worse, (c) repeating every three years is really condescending; and (d) first term newbies, who need lots of education, would not get it before their first budget debate, while they scramble to study & discuss imminent warrant articles.

WA 29 – Change Structure and Appointment of Advisory Committee – FAVORABLE ACTION ONLY IF ANTICIPATED PAX-SUPPORTED AMENDMENTS PASS, OTHERWISE NO ACTION - CTOS recommend an increase in the maximum number of non-TMM AC members, from the current *eight, to fourteen*, and a reduction in the number of precincts that must (*if practicable*) have a TMM on the Advisory Committee, from the current sixteen, to twelve. Pax urges two amendments, each by a board member and former Advisory committee member, the 1st by Stanley Spiegel, and supported by AC, to limit the number of at large members to *ten*; the 2nd by John Bassett) restoring the requirement that there be a TMM from each precinct (also, *if practicable*). The CTOS and AC motions are intended to provide the Moderator with more flexibility, seeking more diversity and balance. We’ve never been shy about criticizing the Moderator for appointing a too-conservative AC, and agree with most of the AC-CTOS objectives. That said, we believe that TMM representation in the form of a super-majority of AC, and more precinct representation (including better balance between north and south Brookline by TMM’s, are important as a matter of good government. Recent years have twice had four (yes, hard-working) ACM’s from a single pct., by coincidence both times from South Brookline.

WA 30 – AC Recorded Votes - FAVORABLE ACTION ON MOTION OF PETITIONER (Neil Gordon, Pax Secretary) – Warrant Articles calling for the Advisory Committee to record and report its members’ votes were offered in 2002 and 2010, and our pro arguments remain familiar: “Town Meeting has the right to know how the members of its principal standing committee voted...”; “The vote of each member of the AC ... provides additional information for each TMM”; “This change in the bylaws would further increase transparency and help Town Meeting to make the best decision possible...” Unlike prior attempts to amend the bylaw, now, even the AC agrees that their votes should be recorded; however they’ll offer an amendment precluding rollcalls (that are otherwise recorded) in the (most pertinent) Combined Reports, which in all candor seems both downright stubborn and downright silly. And, yes Virginia, there’s not only “gambling in Casablanca,” but AC members are all human beings and all have values and biases; any knowledgeable TMM wants to know who voted how. Here’s PAX’s from 2010:

PAX has favored this idea for some time, beginning a few years ago when it was proposed for the A/C but ultimately narrowed to include only the [sic] selectmen. Simple “transparency” and “responsibility” demand lifting our committees’ curtain of anonymity – the same rationales as for the Open Meeting Law and the Public Records Law, both of which frequently meet with resistance. All meetings of these boards, committees and commissions are currently subject to the Open Meeting Law, so this article would not result in any new information being made public; it would merely make more widely available information that’s already public.

WA 31 – Amend Bylaws re: S-Bd Authority to Litigate – NO ACTION - This article -- for now at least, primarily, but forever far more broadly -- targets the (politically emotional) state-court/Civil-Service Alston appeal case, in which the legal issues are actually novel and more complex than the petitioners appreciate, e.g. the downright silly refrain, “just settle the case.” And, beyond that case, WA31 would have much broader potential impact, all ill-conceived and naïve. Despite being promoted as “merely” Town Meeting reclaiming its “power of the purse,” it’s likely downright illegal -- treading on various legal powers and obligations specifically vested in the Select Board by state law, e.g. Civil Service law, ZBA appeals, appellate tax board cases, indemnification of Town officials who are sued, etc. etc. Further, litigation (including the not one, but two Alston cases) is invariably complicated, with decisions as to both litigation strategy and litigation tac-

tics requiring full knowledge of the case, usually information that's legally confidential (and discussed in executive session), and that can't be shared with Town Meeting. We're rarely fans of giving the Select Board more power, but in this case TM shouldn't be sticking its nose and fingers into superficially *assumed* "facts," laws, and policies. (Again, full disclosure: some PAX leaders are tangentially impacted in Alston's Federal Court case.)

WA 32 – Resolution re: Budget Equity – FAVORABLE ACTION We understand and appreciate the need for more affordable housing, increased community engagement, and more, and support a Select Board working group's efforts in this regard. Select Board Chair Bernard Greene has offered an alternate version of Article 32, which is supported by the Advisory Committee, and by PAX.

WA 33 – Resolution re: Town School Partnership - FAVORABLE ACTION – This article calls for greater and earlier community participation in the budget process. It's non-controversial in its current form and PAX supports it.

WA 34 – Resolution re: Housing, Inclusion, Climate Friendly Zoning - FAVORABLE ACTION on whichever version becomes the main motion – The goals of this resolution are laudable. The devil's in (later) details, which will require well deserved study and planning .

WAs 36-37 – Stipends for Select Board and School Committee - NO ACTION – We recognize that the Select Board (in particular) and the School Committee (we think to a lesser extent) have outsized time commitments. And while we'd like to see a more diverse candidate pool, and compensation might help attract that, it's an unproven hypothesis that, if wrong, would simply (but we're not suggesting unfairly) reward those who would volunteer, anyway. Timing for allocating now very limited funds to these (but for the current modest Select Board stipend) volunteers, in the face of our considerable budget pressures couldn't be worse. Perhaps we should study ways to reduce the time demands on these elected officials.

WA 38 & 39 – Resolutions re: Decarbonization; and FFF Infrastructure FAVORABLE ACTION ON BOTH. A Fossil Fuel Free infrastructure bylaw, overwhelmingly approved by Town Meeting, was struck down by the AG's office. These companion articles urge the legislature to act, where the Town can't.

SPECIAL TOWN MEETING 2

WA 1: Budget – NO RECOMMENDATION – Three TMMs have, just in the last few days, proposed a significant (\$1,001,422) budget amendment. Due to this lateness, not only was the PAX board not able to consider the amendment, and none of the its many details have yet been vetted by the Advisory Committee or the Select Board. The AC has scheduled a Monday meeting, and, we suspect, will then recommend either No Action – or offer an as yet unknown alternative. The budget article will be taken up early, we believe on Tuesday. Petitioners complain that the Select Board and AC didn't deal with their (yes, legitimate) concerns, we assume referring to the late June (for the police budget proposals of June 23rd), "Very little has happened despite the SB's agreement to examine these needs." Aside from such an "agreement" being unclear, at least to us, the (again, well-meaning) petitioners need to do better than spring significant last-minute budget proposals on

Town Meeting. The time for public hearings (cherished here), considerable study, and meaningful debates (in and out of government) has long passed. The Warrant came out early September, and – again – such major amendments need our entire, careful process. It’s not adequate to now say, “[W]e did bring these issues to ... the October 7, 2020 Town School Partnership meeting. ... [and] at [sic] WA 33 hearing. .” They could have brought a budget amendment forward on a timely basis. The deliberative “process” that starts with the Warrant and ends with Town Meeting has been happening for two months. Sure it’s onerous, but it’s invaluable-- and necessary.

WA2 – Appropriation for High School Development Project – FAVORABLE ACTION – A unanimous School Committee summarized it well: “The [BHS] Expansion and Renovation project faces unprecedented budget challenges. Despite several rounds of value engineering of scope, externalities including complex and costly negotiations with the MBTA, and a rapidly escalating construction market, unforeseen site construction conditions are driving the need for additional funding to complete this crucial project, projected to be in the \$32 million range.”

WA 3 - Acquisition of Newbury’s West Campus – FAVORABLE ACTION - Ballot Question 3, the debt exclusion related to the West Campus acquisition, was approved by the voters, by a wide margin, on November 3rd. Similarly, Town Meeting voted overwhelmingly in favor of the acquisition last May. This article is brought for technical reasons relating to bonding acquisition related debt.