



PAX BOARD'S WARRANT ARTICLE RECOMMENDATIONS
Brookline Special Town Meetings (STM's -1 & -2), Nov. 16, 2021

On behalf of Brookline PAX, we share the Town Meeting Warrant Article recommendations of the PAX Board, as always by a super-majority (60% or more) of those voting, and grounded in our long-standing PAX principles (e.g., supporting public education, public services, public employees and organized labor, the environment, and diversity, social/racial justice, and peace). (See brooklinepax.org/about/ and also past stances)

Special Town Meeting 2 [STM-2]

WA1 – Favorable Action on ALL Budget Transfers – Fall T/M always has routine budget transfers. This year, it's a "*special within the special*" ("**STM-2**"), with two items of great PAX interest, especially the below 2nd one -- which will also include for first night debate, Tues. the 16th, STM-1's WA30, filed by Marty Rosenthal, PAX Chair and counsel for Stanley Spiegel (also a PAX Board Member, as is his wife, Diana):

- (i) \$200,000 for the **Town racial equity fund** (with Brookline's Community Foundation). Although not the subject of a separate T/M vote, **PAX supports that**; and
- (ii) a very welcome Advisory Committee ("**A/C**") "amendment" (to the original Select Board [**S-Bd**] STM-2's WA1) to transfer \$198,050 from the Reserve Fund for the MGL c. 258, §13 mandatory ("*save harmless*") **indemnification of Stanley Spiegel** for his actual legal fees for defending the (legally "*frivolous*" against him) Alston case -- based on the *alleged* (but disputed) acts clearly "*within the scope*" of Stanley's (PS, *our*) "*employment*" as a TMM and ACM.

So, PAX strongly urges Favorable Action on the above A/C Amendment. For the gory details of this six-year saga, please see in www.brooklinema.gov/1020/town-meeting-files:

- (A) STM-1's WA 30 *EXPLANATION*;
- (B) the A/C and S-Bd Supplemental Recommendations for STM-2; and
- (C) in STM-2, *Supplement 2, WA30 Petitioners' Joinder in A/C Motion and Supplement (to WA30's) Explanation.*

Stanley was obviously targeted in the lawsuit -- twice dismissed and deemed (now by 5 judges) legally "*frivolous*," and meriting \$20,000 in sanctions against the plaintiff's lawyer -- basically (a) -- along with one even more trivial allegation later abandoned by Mr. Alston's lawyer -- for suggesting in 2014 to two people in Townhall, essentially, that Mr. Alston's case was (even then) probably more complex than non-Select-Board-Members knew; and (b) because he was -- OMG!-- a (Herculean and dedicated) 3-decade AC member, now 4-decade TMM, and a PAX Board Member.

Stanley had played zero role vis-à-vis Mr. Alston, and was appalled by both the Lt. Pender voicemail and the outrageous Town leniency towards Pender, later aggravated by Pender's promotion to captain. Stanley was, also -- again, obviously -- sued as a scapegoat, to suggest that not just Townhall, but Brookline's whole "*liberal establishment*," is racially corrupt -- even though he had fought for racial justice for decades, e.g., co-authoring 2014's successful PAX by-law amendment (opposed by the S-Bd.!) making the Chief Diversity Officer a department head.

The \$198,050 is the actual amount Stanley's incurred -- \$137,564 already paid, \$25,486 billed and now due, and adding a \$29,000 contingent fee payment for over 5 years (so far unbilled) for pursuing the indemnity, based on a greatly discounted 17% of the foregoing \$169,000. For the latter, which Stanley would owe his lawyers (and *the Town would also pay!*) far more if a court case becomes necessary, as explained in STM-1 WA30's *Explanation*. (To that ironic extent, yes, Marty has a financial interest in this "settlement.")

C. 268, §13 (accepted 4/15/80 by Brookline voters, 1216Y-597N) and its appellate caselaw are crystal clear: The Town is legally obligated to indemnify Stanley and "hold [him] harmless" from his legal fees for "acts within the scope of his [ACM or TMM] ... *employment*"-- just as the Town has done for *the other nine Town defendants*, all of whom, unlike Stanley: (a) had *paid* Town positions, (b) had roles vis-à-vis Alston, and (c) were *not* legally vindicated! With Mr. Alston now getting \$11 mill, Stanley (age 86, 4 decades a TMM & 3 decades an ACM) -- the least involved of all the parties -- is now *the case's only financial victim*.

After almost six years of 2-person S/Bd/Member pluralities -- including two who became Alston defendants (after they voted to terminate him) -- accepting earlier Town Counsel advice that Stanley's *alleged* acts were not "within the scope of his duties," ignoring the statute's next two words, "*or employment*," last April, Town Counsel Murphy (who supports WA30!) conceded that (a) talking about Mr. Alston was appropriate for an ACM or a TMM; and (b) that even "*stupid comments*" are protected by c. 258 §13 indemnity -- like for instance appellate cases with police misconduct (like malicious prosecution). And besides, (a) of course, Stanley's version of the 2014 conversation has always been different (like denying the factually astounding allegation that he'd seen Alston's personnel file); and (b) 5 judges have ruled that even taking at face value all the complaint's allegations, Stanley committed no civil rights violation -- indeed the charge was "frivolous."

Now, we've heard nobody (yet!) disputing that indemnifying Stanley is in general appropriate. Instead, a 3-person A/C minority and 2 S/Bd members have raised some (rather inexplicably motivated) objections to the \$198k "*settlement*" figure, as well as this T/M "process," and apparently want to invite yet more court litigation. Again, please read the answers in the recent Supplemental Combined Reports, "*WA30 Petitioners' Joinder In A/C Motion and Supplement (to WA30'S) Explanation*," as well as the A/C's "*Supplemental Recommendation*."

For six years' worth of more details -- and 2018/2021 supportive letters, e.g., from now 47 current/former Town officials (e.g. Moderators, State Reps, A/C chairs, S/Bd members, and PAX) -- again, please read the (two) aforementioned Petitioners' *Explanations* in the Combined Reports -- for *both* this STM-2 article and for STM-1's WA30. As per the explicit purpose of MGL c. 258, §13, we/YOU are ALL Stanley. Does anyone doubt that a Trumpist "lawyer" could later sue an ACM/TMM, a CDICR member, etc.? So, at stake here is not "merely" justice for Stanley and his family, but actually respect for -- and protection of -- Brookline's cherished "Representative Town Meeting" (i.e. legislature) and our tradition of community volunteerism.

Special Town Meeting (i.e., "STM-1," the regular Fall T/M)

WA4 – Delegation of License Authority - The bulk of licenses issued by the S/B are routine and consume more of their time than necessary. Asking the legislature to allow delegation of authority to an appointed board, or to staff, makes sense. There's plenty of time to discuss important, actual policies, like what to delegate vs. what the S/B should retain -- with a robust process and public input. **PAX recommends FAVORABLE ACTION.**

WA6 – Sidewalk obstructions –Pedestrian safety, disability rights, and common sense make this a no-brainer bylaw amendment. Our current one doesn't clearly include bio-blockage, e.g., overgrown hedges that aren't "placed" on walkways, but rather grow and slowly narrow them. The well-reasoned proposal distinguishes between easily cleared blockages and those needing more time. We like expanding enforcement beyond the police (and note that we strongly urge *equitable* enforcement, no matter by what agency). **PAX recommends Favorable Action.**

WA7 – Increase marijuana licenses for equity applicants – Our stance to decriminalize-legalize-regulate marijuana has been clear and forceful for decades; and we see only upside in the licensing of applicants from communities that have been adversely impacted by racist "Drug War" [sic] inequities. While we would have preferred a more-definitive and timely S/Bd policy, including greater opportunity for public input, **PAX strongly recommends Favorable Action.** (and, see WA's 8-9)

WA8 – Cap the number of marijuana licenses by rounding down – While we don't question either the sincerity or intelligence of its proponents, WA8 could be titled "Reefer Madness meets 4th grade math." It serves no purpose other than to reduce the number of marijuana licenses from the current four to three (excluding in either case the proposed equity licenses). Protecting young smokers, while a commendable goal, is not gonna happen by reducing legal dispensaries; kids will have access to grass no matter what we do, a matter for their parents to address. And, "black market" grass is obviously more dangerous. Brookline voters, and Town Meeting, have weighed in on legalization, more than once. Quoting Bob Dylan, "The answer, my friend, is blowing in the wind." Legalization-regulation, like alcohol which is in many ways more dangerous, is an idea whose time -- at last -- came. **PAX strongly recommends No Action.**

WA9 – Create a new marijuana study committee – My goodness, how many marijuana study committees does one town need, and what might this committee accomplish in the limited time demanded by this Article? Again, we don't question the critics' sincerity, but their concerns won't be solved or resolved in Brookline. Substances' abuses, yes, exist; but are -- and always will be -- complex state and national issues. **PAX recommends No Action.**

WA10 – Authorize Hybrid Town Meetings – We appreciate the appeal of hybrid Town Meetings, to facilitate more participation. We also appreciate the technical and logistical challenges that come along with it. As a policy matter, the state legislature will ponder this as a statewide issue, making it less likely that Brookline will receive special consideration via Home Rule petition. We support WA10 in any case, and its passage will do no harm beyond (maybe) a modest consumption of the Town's political capital. **PAX recommends Favorable Action.**

WA11 – Exempt Brookline from in person quorums. This home rule petition may suffer the same legislative fate as the WA10 petition. Nonetheless, we reach the same conclusion, for similar reasons. **PAX recommends Favorable Action.**

WA12 – Equip all municipal conference rooms with AV equipment – As the PAX Board met, petitioners and the A/C were offering different versions of what, in either case, would be a non-

binding resolution. Regardless, we support hybrid meetings as we emerge from COVID, and recognize we can't get there without investing in infrastructure and training. **PAX recommends Favorable Action on whichever version becomes the main motion.**

WA13 – Rollcall votes for all Town bodies – The S/Bd records its votes; and, after decades of debate and persistent urging of PAX, now A/C, too. The public and TMM's have a right to know how even appointed members of public bodies vote. This very modest imposition on our various boards/committees is far outweighed by the benefits. **PAX recommends Favorable Action.**

WA15 – Language access services – Perhaps no other WA touches on the core PAX principles of diversity and social/racial justice as much as this. Everyone has a right (i) to equitably access the services provided by their government, and (ii) to complain and/or suggest improving those services -- English proficiency notwithstanding. **PAX recommends Favorable Action.**

WA17 – Study Townwide Composting – This WA was controversial only due to issues like timing and resources needed to study and craft a plan. Following productive discussions, pretty much everyone is now on the same page. **PAX recommends Favorable Action.**

WA18 – Low carbon concrete – This commonsense initiative is widely supported, without controversy. **PAX recommends Favorable Action.**

WA22 – Gun store zoning restrictions - USA has a horrible, historic proliferation of, and love affair with, both guns and might-makes-right interpersonal violence -- from our two Original Sins to Manifest Destiny to the Vietnam and Iraq Wars, to Stand Your Ground laws, to Bernie Goetz, Proud Boys, Kyle Rittenhouse, and the Ahmaud Arbery lynchings. It's all now being abetted and exacerbated by a reactionary GOP and "their" legal-lunatic-fringe Supreme Court -- lap-dogs to the now also megalomaniac-extremist NRA. We must do all we can to reduce access to guns, as Brookline's recent Police Chiefs have done (by being "stingy" in granting gun licenses). WA 22 is a message that we must send. **PAX recommends Favorable Action.**

WA23 – Reduce residential parking minimums – Excessive parking requirements result in fewer, larger (more expensive) apartments, and less green space. The proposed reduction in parking requirements is a modest change compared to communities (from Berkeley to Buffalo) that have eliminated minimum requirements entirely. This WA is a positive, modest step towards aligning Brookline's land use regulations with PAX's clear desire for housing affordability, climate mitigation, and less auto-centric development. Petitioner and the Planning Board are in agreement; the A/C amendment would substantially dilute the intended purpose. **PAX recommends No Action on the A/C's amendment, and Favorable Action on WA23.**

WA25 – Electric vehicle parking – WA25 proposes that all residential parking spaces in new construction and substantially renovated buildings be "EV-Ready" (i.e., equipped with electrical infrastructure for an electric vehicle charger). Rapid vehicle electrification is a necessary part of addressing the climate emergency, and policies that facilitate this transition align with Brookline PAX's

support for protecting the environment. **PAX recommends No Action on the Advisory Committee Motion to Refer, and Favorable Action on WA25.**

WA26 – Planning and zoning reform project – WA26 calls for a plan to update our last “comprehensive plan.” We endorse thoughtfully designing a comprehensive planning process that specifically seeks input from all stakeholders in the community, especially often marginalized voices, to plan for the future of Brookline. We're encouraged that the sponsors adapted to early criticisms to think more about what this process should look like and how much it will cost, and that this compromise version will not impede on the implementation of recommendations from current planning efforts such as the Housing Production Plan and Boylston Street Corridor study. We hope this comprehensive plan will address our climate emergency with urgency as we discuss a plan for future land use. **PAX recommends Favorable Action.**

WA27 – Financial impact of warrant articles – This modest bylaw amendment, to require that petitioned WAs be accompanied by an explanation, would require a most modest description of a WA’s financial impact on the Town. The proposal doesn’t require detailed analysis or staff involvement, it simply requires petitioners to consider financial impact and make a statement about it, accordingly. And, it has no teeth, which state law would likely foreclose. PAX is hardly fiscally conservative, but neither do we believe we should spend with our eyes closed. **PAX recommends Favorable Action.**

WA28 – Restrict sale of fur products – Fur is fashion at the expense of animal cruelty. **PAX recommends Favorable Action.**

WA29 – Require public hearings before election/voting changes – Expanding on the notion that the public has the right to be heard, the likely WA29 motion will require public hearings before (i) changes are made to polling locations, including for early voting, and (ii) changes are made in the way signatures are verified for nominating and warrant article petitions. It’s straightforward, imposes a modest burden, and costs nothing. **PAX recommends Favorable Action.**

WA30 (by Marty R.) – Favorable Action on Indemnification of Stanley Spiegel – See (far above) STM-2 and the A/C’s budget amendment, where this will be debated the 1st night, Nov. 16th. **PAX urges Favorable Action on the A/C Motion (Supplement No. 1 p. 2).**