



Brookline PAX Recommendations

11/16/10 Special Town Meeting

Art 3: Budget amendments – a PAX observation

This article asks Town Meeting to appropriate about \$563,000 in extra revenue above last May's budget estimates. The administration recommends assigning some \$57,000 to the schools, \$253,000 to Retiree Benefits, and \$253,000 to the Stabilization Fund. PAX has no objections to this distribution, which has been approved by the Selectmen and the Advisory Committee, but notes that there has been virtually no input from Town Meeting Members into the process of determining how these funds should be appropriated, and whether there are alternative worthy purposes for which they might better be expended. We're not yet sure how this can best be accomplished, but we believe TMMs should be more involved in making these funding decisions, rather than simply rubber-stamping administration proposals.

Arts. 5 & 6: Neighborhood Conservation Districts & Hancock Village

SUPPORT AC motion

Article 5 enables the Town to create Neighborhood Conservation Districts (NCDs) to protect its distinctive neighborhoods while at the same time guiding sensible development. Article 6 establishes the first NCD encompassing Hancock Village, which is a particularly appropriate site – one of the best preserved examples of a post-WWII “Garden Village” style development. It is currently threatened by plans for grossly excessive development that would have a substantial negative impact on Brookline's schools, open space, budget and more. For further information click on: <http://www.preservebrookline.com>.

We join the AC, Board of Selectmen, Preservation Commission, North Brookline Neighborhood Association and South Brookline Neighborhood Association in our support of Articles 5 & 6.

Art. 7: Ban tobacco sale by educational & health institutions

SUPPORT BoS motion

PAX is happy to join the Selectmen and the AC in recommending support of this ban. We also commend the Advisory Council on Public Health's continuing effective efforts to protect the health of Brookline's citizens.

Art. 8: Authorize fingerprinting of Town licensees during background checks

Vote NO ACTION

PAX acknowledges some potential benefit of accessing out-of-state criminal records of license applicants. However, particularly during these years of constantly decreasing crime in town, we decry the perpetual nationwide drumbeat of “Forget civil liberties – we need more tools to fight crime.” For reasons detailed in the enclosed letter from the ACLU of Massachusetts, we believe the marginal costs outweigh the marginal benefits and urge NO ACTION.

Art. 9: Place limitations on leaf blower use

SUPPORT AC motion

This article would limit the offensive noise pollution, the impact on global warming from unnecessary burning of carbon emitting fossil fuels, and the wide dispersal of particulates caused by the overuse and abuse of leaf blowers. While many would wholly outlaw them altogether, this proposal is a moderate compromise that would allow their use in the fall and spring, when there are leaves to be gathered, but restrict their use in the winter and summer, when most of the unnecessary use occurs.

Art. 11: Remove Brookline from member communities of Norfolk County

Vote NO ACTION

As

indicated in the selectmen's recommendation, there is “virtually no chance” that the state legislature would pass this legislation, since the remaining communities would inherit our tax burden. For the same reason, those communities might be less receptive to our future home rule petitions on other matters. We share the selectmen's “major concern” that the Brookline District Court would be more likely to be closed as a result of passing this resolution. We say again, as we did in the spring concerning the predecessor to this article, “we oppose any such legislative action until the crucial concerns [primarily regarding the court] expressed in Chief O'Leary's letter of April 6, 2011, are substantially alleviated.” Last year we had a close call on possible closing of the Brookline Court – as did happen to several others – and this resolution plays with political fire in a manner other communities would likely react spitefully.

Art. 13: Resolution to fund pedestrian signal at Harvard & Green Streets

SUPPORT AC motion

To reduce traffic congestion in Coolidge Corner, studies by two different traffic consultants in 2007 and 2009 recommended consideration of a pedestrian-activated walk signal coordinated with the Beacon Street signal to allow pedestrians to cross only while Harvard Street traffic is already stopped by the signal at Beacon Street. This will provide pedestrians with a safer, defined crossing opportunity that won't add to congestion by impeding Harvard Street traffic flow. The AC motion asks the Transportation Board to study the feasibility and costs of such a signal, with the understanding that the Board has already committed itself to a wider study to consider the relationship of Green Street to other nearby intersections and to examine other possible remediation measures.

Art. 14: Resolution urging improvement or replacement of multi-space parking meters**SUPPORT AC motion**

The Town Administrator's task force has made commendable progress on improving the performance of the new meters in the face of widespread public complaint. Since clearly more remains to be done, this resolution provides an appropriate nudge for the task force and Town officials to carry this effort further.

Art. 15: Resolution to set rules for use of parks by daycare centers & preschools**SUPPORT AC motion**

PAX commends the petitioner for effectively addressing concerns resulting from heavy use of parks in the Brookline Village area. We also support continued oversight and discussions to monitor these safety concerns in all of our parks.

Art. 16: Resolution to change scheduling of Town Meeting**SUPPORT AC motion**

Another reasonable compromise between status quo and reform, this proposal would retain the consecutive-night regimen for the usually shorter fall session but shift the longer and, for many, more taxing Annual Meeting to a Tuesday-Thursday schedule.

Art. 17: Resolution urging School Committee to alter Pledge policy**SUPPORT AC motion**

This article has been mischaracterized as an effort to ban the Pledge. We urge TMMs to focus on the actual language of the RESOLVED section and support the AC motion on page 17-7, based on a revised version by the Petitioners (including six former School Committee (SC) members). The only issue is where and how to conduct the Pledge in schools – why in classroom “fishbowls”? – not whether to do it.

Regarding bullying, the AC is spot-on: “There was unequivocal agreement that these consequences are experienced, but Petitioners ... did not want bullying to be the sole focus of this article” since their main goal is the positive one of a welcoming atmosphere and tolerance for diverse views, nationalities, etc. (“recitation of the Pledge in a non-threatening and educationally enhancing environment”). Unlike the selectmen, we share the AC's view that “Town Meeting should be free to formalize its feelings about this community issue.”

The Selectmen state incorrectly that the SC “in a series of public meetings ... took into consideration all of the public policy issues” now being debated. In no meeting of the SC was the *classroom* issue either discussed or justified; it is a remnant of a now admittedly unconstitutional statute. Finally, the AC motion does not give principals “autonomy,” but only *guided* discretion.

As stated in the TAB's editorial, “If a student understands the Pledge and wants to recite it, he or she should be welcomed and encouraged to do so. But to make the Pledge the default and force kids to opt-out seems backwards and unfair”; and in TMM-14 Debby Goldberg's TAB letter, , the petitioners “are trying to strike a balance for everyone ... requesting that the School Committee reconsider ... find a solution so that all kids and their families are truly comfortable in their school environment.”

Art. 18: Resolution to reduce political robocalls**Vote NO ACTION**

Although PAX acknowledges (and many of us share) the annoyance many feel as a result of repeated robocalls and considers the proposed resolution a mild request for candidate forbearance, it would nonetheless be asking candidates to refrain from acting in what they believe to be their best political interests by not availing themselves fully of their constitutional right to protected speech. Individuals and private groups are free to object to the use of robocalls, but we believe it is inappropriate for Town Meeting, a government body, to do so.

Marty Rosenthal and Frank Farlow, Co-chairs

PAX supports: Excellent public education and services, Respect for public employees and organized labor, and Respect for the environment, diversity and social justice.

Think globally, act locally: see www.BrooklinePAX.org

To: Brookline Town Meeting Members
From: Kade Crockford, Privacy Rights Coordinator, ACLU of Massachusetts
Date: 11.8.11

**STATEMENT of the AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS
in OPPOSITION to ARTICLE 8: FINGERPRINT-BASED CRIMINAL RECORD BACKGROUND CHECKS**

The ACLU of Massachusetts opposes this proposed bylaw article to institute intrusive “fingerprint-based criminal record background checks.”

The article would require applicants for numerous civil licenses to submit to fingerprinting as part of the criminal records checks currently conducted by the Brookline Police Department. The BPD would submit the fingerprints to state and federal agencies, including the FBI, for checks against their databases. Then, under existing Town law, the BPD would render a suitability evaluation to the licensing authority, indicating past convictions, including any for drug-related misdemeanors.

Our reasons for opposing the article are as follows:

1. Massachusetts law GL c. 151B, § 4(9) prohibits employers from asking job applicants about arrests that did not result in conviction. However, **this proposal doesn’t prohibit BPD officers from considering such arrests without conviction; in fact, it also requires them to consider “pending indictments.”** It would therefore result in the same type of discrimination banned in a slightly different context. The policy would have a negative impact on individuals who have been arrested or indicted – perhaps even decades ago – but never convicted of any crime.

2. **The proposal broadens the government’s net of biometric surveillance and databanks** to include individuals interacting with agencies that are not concerned with criminal law enforcement. The article does not prohibit storing applicants’ fingerprints in a database, so the FBI would likely maintain the biometric data of many innocent Brookline entrepreneurs. This data would then be

Enforcement (ICE) agency. The growth of such government databanks holding our personal data poses great civil liberties risks: they operate based on the assumption that we are all suspects until proven innocent.

3. Running license applicants’ fingerprints through **the FBI’s criminal database will return false positives**, denying ordinary people an opportunity for honest work. The FBI itself has admitted that “about half” of the data in their criminal database, the National Crime Information Center (NCIC), is not accurate. An independent study by the Migration Policy Institute in 2005 also found an error rate of 42 percent in “hits” on the database between 2002 and 2004. What accounts for this shocking error rate? In 2003 the Department of Justice exempted the NCIC from Privacy Act requirements that mandate checks on the accuracy of data in government systems.

4. Fingerprints obtained by the BPD would eventually be deposited and stored in the databases of ICE and DHS, since the FBI database will be linked to them automatically in 2013 through the so-called “Secure Communities” program. As a result, **people who have committed no crime – including U.S. citizens – could face detention and deportation proceedings.**¹ Governor Patrick opted out that it will move forward with the program in Massachusetts regardless of popular opposition here.)

5. Finally, as a practical matter, this type of law would have the effect of **adding to the voluminous amount of unnecessary data already clogging our government’s data systems**, making it even more difficult – not easier – to identify the truly dangerous people among us.

In conclusion, authorizing the BPD to collect fingerprint data from persons who are “playing by the rules” – seeking a city license and paying

The regulatory system proposed by this article would do very little to improve public safety. But it would unfairly harm individuals’ opportunities to work and would contribute to mounting civil liberties concerns about rapidly growing government databases and databanks containing our personal and individualized biometric information.

The ACLU of Massachusetts urges that the Article 8 not be adopted.

(Footnotes)

¹ Tyche Hendricks, “U.S. citizens wrongly detained, deported by ICE,” *The San Francisco Chronicle*, July 27, 2009. See http://articles.sfgate.com/2009-07-27/news/17218849_1_judy-rabinovitz-immigration-laws-illegal-immigrant