
ARTICLE 11

ELEVENTH ARTICLE

Submitted by: Select Board

To see if the Town will amend Chapter 2.2 of the General By-Laws (which governs the powers and duties of the Advisory Committee) as follows, with additions underlined:

Section 2.2.1. Appointment of Members

[...]

- B. At least one elected Town Meeting member shall be appointed from each precinct, to the extent practicable. At least one Committee member shall be a resident of each precinct, to the extent practicable. But no more than four members of the Committee shall reside in the same precinct. The number of Committee members who are not Town Meeting members shall not exceed 10. No member of the Committee shall be an employee of the Town or a member of any standing board or committee having charge of the expenditure of money, with the exception of a Board or Committee related to the construction or reconstruction of specific Town buildings or properties, whether or not the construction or reconstruction is being funded in whole or in part by the Commonwealth; but this restriction shall not disqualify from appointment to the Committee, members of special committees, which may be created from time to time by Town Meeting, the Moderator or the Select Board to report on specific matters.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Advisory Committee is Brookline's "finance committee" as that term is defined in state law. Brookline has given the Committee a broad mandate, requiring it to "consider any or all municipal questions, including appropriation requests and proposed action under all articles in the warrant for a Town Meeting, for the purpose of making reports or recommendations to the Town" in addition to submitting the annual budget warrant article to Town Meeting. To that end, Advisory Committee members are expected to have or develop detailed knowledge of municipal finance more generally and Brookline's finances specifically.

Advisory Committee members have historically served on committees that direct and oversee major capital construction projects in the Town. This is in keeping with the requirements of the Massachusetts School Building Authority (“MSBA”), which mandate a “municipal budget official” (specifically defined to include “a member of the [municipal] Finance Committee”) serve on any school construction project committee receiving MSBA funding.

This service, however, conflicts with the current text of the By-Laws, which prevent Advisory Committee members from serving on “any standing board or committee having charge of the expenditure of money.” This is intended to avoid conflicts of interest and accusations of self-dealing that could arise if a member of the committee that promulgates the budget used their influence to steer money to a body that they could then expend for their own purposes.

Past interpretations of this clause have classified capital construction project committees as non-standing because they are created for a specific purpose and typically disband once the project is closed out. In reality, however, these committees exist for years, and do more than “report on specific matters.” Town Counsel has opined that service on such a committee is incompatible with the current language of Section 2.2.1(B) of the General By-Laws.

Accordingly, at the request of the Moderator and Advisory Committee leadership, the Select Board is submitting this amendment to Section 2.2.1(B) that would provide for a narrow exception allowing Advisory Committee members to serve on boards or committees related to the construction or reconstruction of specific Town buildings or properties, such as school building committees.

The rationale for this exemption is twofold. First, as discussed above, Advisory Committee members are members of the public who typically possess in-depth knowledge about the Town’s finances and municipal finance more generally. They are often experts in their fields whose backgrounds (architects, accountants, etc.) provide valuable insight to other committee members in reaching decisions on how a complex capital project should proceed. They have often advocated for design choices that take ongoing maintenance and operational costs into account. Their presence on these committees provides a valuable public voice and has contributed to Brookline’s track record of completing these projects on time and on or even under budget.

Second, the potential for conflicts of interest or self-dealing is minimized given the size of and public scrutiny faced by building committees. School building committees typically have as many as 15 members, including professional staff and members from other boards. Their meetings, particularly at the outset of projects where major decisions regarding budgets and spending are made, are well-publicized and well-attended. The state Conflict of Interest Law and Town Policy on Fraudulent Conduct, Misappropriation and Corruption would still apply to Advisory Committee members, forbidding them from voting or opining on matters in which they had an actual or perceived interest. And the exception itself is narrowly tailored: Advisory Committee members still may not serve on general-purpose

standing committees related to real property that can expend money, such as the Building Commission.

Given the historic benefits of having Advisory Committee members serve on capital project committees, the negligible potential for abuse of those positions, and the continued protections of state and local laws and regulations that serve as guardrails against public corruption, the Select Board respectfully asks Town Meeting to adopt this narrow exception by amending the General By-Laws.

SELECT BOARD'S RECOMMENDATION

ROLL CALL VOTE:

Aye:

ADVISORY COMMITTEE'S RECOMMENDATION

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