

Spzcial Town Mzgeting, October 26, 2000

Worezstgr SS

To eizher of the Constables of the Town of Brookfield in the County of Worezstgr:

GREETING:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby dirzeted to notify and warn the inhabitants of said Town, qualified to vote in elzctions and in town affairs, to meet at the Town Hall, Banquet Hall in said town on Thursday, the Twenty-sixth of October next at 7:00p.m. o'clock in the afternoon, then and there to act on the following:

**Article 1. To see if the Town will vote to transfer a sum of money to the Regional School Assessment Account from the Regional School Construction Account or take any action relative thereto. Sponsored by the Treasurer.**

**The Town voted unanimously to transfer \$101,476.00 from the Regional School Construction Acct. to the Regional School Assessment Acct.**

**Article 2. To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money to supplement the Medicare Expense Account or take any action relative thereto. Sponsored by the Treasurer**

**The Town voted unanimously to transfer \$3500.00 from Additional Lottery funds to the Medicare Expense Acct.**

**Article 3. To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money to supplement the Group (Health) Insurance or take any action relative thereto. Sponsored by the Treasurer**

**The Town voted unanimously to transfer \$6552.71 from Additional Lottery Funds to the Group (Health) Insurance Acct.**

**Article 4. To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money to the Veterans' Casework account or take any action relative thereto. Sponsored by the Veterans' Agent**

**The Town voted unanimously to transfer \$15,000.00 from Additional Lottery Funds to the Veterans' Casework Acct.**

**Article 5. To see if the Town will vote to raise or appropriate, transfer or borrow a sum of money to the Architectural and Engineering Expense Account for document completion for the Town Hall Handicapped Access and Partial Renovation or take any action relative thereto. Sponsored by the Advisory Committee**

**The motion was voted on by a hand count vote of 18 yes and 12 no to amend the article to read as follows.**

**The Town voted by a majority to raise and appropriate \$81,000.00 to go into the Architectural and Engineering Expense Acct. for document completion for the Town hall Handicapped Access and Partial Renovation**

**Article 6. To see if the Town will vote to raise or appropriate, transfer or borrow a sum of money to fund the Stabilization Account or take any action relative thereto. Sponsored by the Advisory Committee**

**The Town voted to pass over this article.**

**Article 7. To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money to supplement the election and registration salary account or take any action relative thereto. Sponsored by the Town Clerk.**

**The Town voted unanimously to transfer \$716.00 from Additional Lottery Funds to supplement the Election and Registration Salary Acct. due to the increase number of Special Town Meetings, Special Elections, voter registrations and increase in detail rate for Police duty.**

**Article 8. To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money to the Zoning Map Expense Account or take any action relative thereto. Sponsored by the Planning Board.**

**The town voted to pass over this article.**

**Article 9. To see if the Town will vote to transfer a sum of money to the Planning Board Expense Account from the Planning Board Clerk Wage Account or take any action relative thereto. Sponsored by the Planning Board**

**The Town voted to pass over this article.**

**Article 10. To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money to the Library Training Account for the Library Director or take any action relative thereto. Sponsored by Merrick Public Library**

**The town voted unanimously to transfer \$500.00 from Additional Lottery Funds to the Library Training Acct. for the Library Director.**

**Article 11. To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money to the Self Contained Breathing Apparatus and Accessories Expense Account for the Fire Department or take any action relative thereto. Sponsored by the Fire Department**

**The town voted unanimously to transfer \$15,000.00 from Additional Lottery Funds and \$2000.00 from the Fire Department Testing/Recertification Acct. to the Self Contained Breathing Apparatus and Accessories Expense Acct. for the Fire Department.**

**Article 12. To see if the Town will vote to transfer a sum of money to the Fire Apparatus and Equipment Expense Account from stabilization or take any action relative thereto. Sponsored by the Fire Department**

**The Town voted by a vote of 31 yes and 5 no to transfer \$45,000.00 from Stabilization Acct. to the Fire Apparatus and Equipment Expense Acct.**

**Article 13. To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money to supplement the Plumbing Inspector's Expense Account or take any action relative thereto. Sponsored by the Plumbing Inspector**

**The Town voted unanimously to transfer \$150.00 from the Additional Lottery Funds to supplement the Plumbing Inspector's Expense Acct.**

**Article 14. To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money to supplement the Veteran's Directors Expense Account or take any action relative thereto. Sponsored by the Veterans' Director**

**The Town voted unanimously to transfer \$50.00 for Additional Lottery Funds to supplement the Veteran's Directors Expense Acct.**

**Article 15. To see if the Town will vote to transfer or borrow a sum of money to the Care of Dogs Salary Account or take any action relative thereto. Sponsored by the Dog Officer/Animal Control Officer**

**The Town voted to pass over this article.**

**Article 16. To see if the Town will vote to transfer or borrow a sum of money to the FY1998 through 2000 Unpaid Bill Account to pay Wickaboag Veterinary Clinic or take any action relative thereto. Sponsored by the Dog Officer/Animal Control Officer**

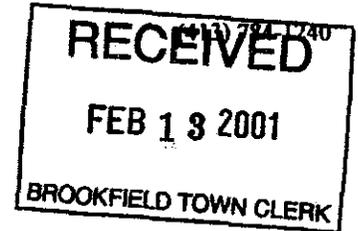


THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

WESTERN MASSACHUSETTS DIVISION  
436 DWIGHT STREET  
SPRINGFIELD, MASSACHUSETTS 01103

TOM REILLY  
ATTORNEY GENERAL

February 12, 2001



Linda M. Lincoln, Town Clerk  
6 Central Street  
Brookfield, MA 01506

**RE: Brookfield Special Town Meeting of October 26, 2000—Case # 1352  
Warrant Article # 18 (General)**

Dear Ms. Lincoln:

I return the amendments to the town by-laws adopted under Article 18 of the warrant for the Brookfield town meeting that convened on October 26, 2000, with the disapproval of this Office.

Article 18 would amend Chapter X of the town by-laws by adding a new Section 17. Specifically, the new Section 17 would allow the fire, building, wiring, and plumbing inspectors to delay the issuance of their respective permits — permits which they would otherwise be required to issue pursuant to the several statutes under which they function — if a building is not adequately marked with the "correct street number." Section 17 would also require the board of assessors to be the arbiter of what is a "correct" street number.

The building inspector in a town also administers and enforces the state building code. G.L. c. 143, § 3. The building inspector has the limited power of determining whether there is any violation of town zoning by-laws or the State Building Code, and the state law expressly authorizes the building inspector to condition the issuance of the building permit upon compliance with local zoning laws. G.L. c. 40A, § 7. However, the building inspector does not have the authority to condition the issuance of building permits on compliance with the town's general by-laws, as in the matter before us.

The proposed amendments confer broad discretion on the building inspector to determine whether a building is adequately marked with the correct street number. The power conferred upon the building inspector by G.L. c. 40A, § 7, requires the inspector of buildings to compare a structure or use with the criteria established in the zoning by-laws and to determine whether the structure or use is in compliance therewith.

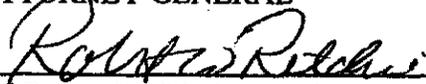
For essentially the same reasons the fire inspector, wire inspector, and plumbing inspector are not authorized to condition the issuance of the permits they are otherwise required to issue under the fire code, electrical code, and plumbing code upon compliance with local general by-laws.

By giving the fire, building, wiring, and plumbing inspectors the power to determine whether buildings are adequately marked with the correct street numbers without any established criteria with which to compare, the above language gives the building inspector discretion not allowed by G.L. c. 143, § 3, or c. 40A, § 7, or any other state law. This is not to say that town meeting in a local by-law may not assign additional duties to the inspectors with respect to house numbering along with the authority to enforce whatever local consequences town meeting may wish to attach to a failure to comply with the local law. It is quite another thing, however, when a local general by-law purports to supersede the functions assigned to the inspectors by the General Laws by suspending their duty to issue permits that must be issued pursuant to state law.

Under the proposed amendments, the board of assessors, upon review of its records, may be able to determine the actual street number for each building. However, if the board of assessors is determining whether the size, shape, coloring etc. of the number on the building is correct the by-law is problematic. Without previously established standards and criteria to guide the board in determining of whether the building is adequately marked with the correct numbers, the proposed by-law amendments would grant to the board of assessor limitless discretion. Thus promoting potentially arbitrary and discriminatory decision making in violation of rights afforded under the United States Constitution, as applied to the states via the Fourteenth Amendment, and under the Massachusetts Declaration of Rights.

Since the by-law does not define what is meant by the phrase "adequately marked with the correct street number" we do not know what the board of assessors will be looking for when they determine what is a correct street number. For the above stated reasons, we disapprove and delete Article 18.

THOMAS F. REILLY  
ATTORNEY GENERAL

  
by: Robert W. Ritchie, Assistant Attorney General  
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enc.  
pc:

Town Counsel



OFFICE OF THE  
**TOWN CLERK**

LINDA M. LINCOLN

6 CENTRAL STREET  
BROOKFIELD, MASSACHUSETTS 01506  
TEL. 508-867-8004

November 16, 2000

This is to certify at the Special Town Meeting held on October 26, 2000 that Article 18, was voted on and unanimously approved, it is as follows:

Article 18. To see if the Town will vote to add to the Town's By-Laws a section allowing public safety inspectors, i.e., Fire, Building, Wiring, and Plumbing to deny issuance of a permit if the building is not adequately marked with the correct street number or take any action relative thereto.

The Town voted unanimously to add to the Town's By-Laws, Chapter X, a new section, Section 17. allowing public safety inspectors i.e., Fire, Building, Wiring, and Plumbing to *delay* issuance of a permit if the building is not adequately marked with the correct street number and that the Board of Assessors be named as the arbiter of what a "correct" street number is.

*Linda M. Lincoln*

A True Copy Attest: Linda M. Lincoln

Pursuant to the within Warrant, I have notified and warned the inhabitants of the Town of Brookfield by posting up attested copies of same on October 12, 2000 at the Brookfield Town Hall at 11:45 A.M. and Post Office at 11:50 A.M.

Fourteen Days before the date of the meeting, as within directed.

*Forty-two (42) residents were in attendance. The meeting adjourned at 8:40 P.M.*

*A True Copy Attest: Linda M. Lincoln, Town Clerk*