

ARTICLE 23

Motion Offered by Marty Rosenthal, TMM Prec-9 & Frank Farlow, TMM Prec-4

Moved: That the Town will adopt the following Resolution:

Resolution Concerning Citizen Complaint Policy

WHEREAS: an incident involving TMM-6 Arthur Conquest and others on May 24, 2007, after a Zoning Board of Appeals meeting at Town Hall, followed by events involving the Brookline Police and the Board of Selectmen, led to the selectmen's establishment of a Citizen Complaint Review Committee (CCRC), which in January presented to a final report recommending a number of changes in procedures for handling citizen complaints regarding police conduct; and

WHEREAS: for two decades those procedures were derived from the 1987 *Report on Police & Community Relations*, a unanimous Board of Selectmen's response to widespread community concerns not just about obtaining better and more transparent accountability, but also about protecting civil rights and providing greater racial justice while trying to be fair to both citizens and officers. Civil rights specialists widely praised the 1987 Report, e.g., Martin Walsh, regional director of the U.S. Justice Department's Community Relations Service in the *Boston Globe*: "I was very impressed with what Brookline did. ... This is what we keep discussing with various town and city officials, They have to take the leadership role. The leaders in this case have said this is what Brookline stands for in terms of civil rights"; and

WHEREAS: anything diminishing the reforms in place since 1987 must be justified by a high burden of proof and compelling reasons; and

WHEREAS: the current procedure for deciding whether to grant a full selectmen's hearing – a single selectman's request for serious complaints (Class A) or policy issues (Class C) and two selectmen for others (Class B) led to almost no hearings for two decades; so clearly some changes are needed. While the CCCR proposed one salutary improvement in that procedure, an informal presentation by the complainant, it also proposed increasing to three the number of selectmen votes required to grant a full hearing, The committee majority offered two rationales for this major step backward: that the new informal presentation will lead to the granting of more appeals, and that civil service laws conflict with the two-decade-old procedure. These rationales are, respectively, speculative and legally unconvincing. Brookline officials of the Police Department, the Police Union, and Town Counsel were closely consulted in 1987, as were state civil service officials, and none objected. Unless clearly unnecessary or clearly unlawful, neither being the case, the 1-2 vote 1987 procedures should be retained; and

WHEREAS: the CCRC majority rejected proposals to simply urge studies of two issues that were clearly raised by the May 2007 incident – the development of procedural guidelines for officers seeking criminal complaints regarding situations in which they, themselves, are not actual witnesses, and procedures for citizen complaints concerning non-Police officials;

NOW, THEREFORE, BE IT RESOLVED THAT: Town Meeting urges the Board of Selectmen to:

1. , to the extent permitted by civil service law, reject the CCRC’s twofold recommendation (a) to abandon the current procedure, adopted in 1987, requiring the Selectmen to grant a full appeal hearing requested by a complainant

- at the request of any individual selectman for a complaint deemed either Class A (alleging “excessive force, unreasonable deprivation of individual rights, conduct or behavior derogatory of a person’s race, religion, or ethnic origin”) or “Class C” (questioning “policy issues”) and
- at the request of any two selectmen for a Class B matter (regarding all other nontrivial complaints); and (b) to put in its place a new requirement that at least three selectmen must vote to grant a full appeal hearing for complaints of all classes; and

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2. take the following three measures, which were considered but not recommended by the CCRC despite the near-unanimous support of those who testified at the its final hearing:

- a. study and, in consultation with the Chief of Police, establish procedures to be followed when officers seek the issuance of criminal complaints regarding situations in which the police, themselves, are not witnesses to the alleged crime;
- b. oversee the development of procedures for citizen complaints concerning Town officials and employees of departments other than the Police Department, final responsibility for their adoption and implementation residing with the Selectmen; and
- c. add to current policy concerning the handling of citizen complaints a provision requiring that written submissions by appellants and/or witnesses that dispute or supplement the police investigative report be appended to the report.