

Town of Brookline
Advisory Committee Minutes

Sean Lynn-Jones, Chair

Date: March 8, 2016

Present: Carla Benka, Clifford M. Brown, Carol Caro, Lea Cohen, John Doggett, Harry K. Friedman, Janet Gelbart, David-Marc Goldstein, Jennifer Goldsmith, Neil Gordon, Kelly Hardebeck, Amy F. Hummel, Systke Humphrey, Alisa Jonas, Janice S. Kahn, Steve Kanes, Bobbie Knable, Fred Levitan, Robert Liao, Pamela Lodish, Sean M. Lynn-Jones, Shaari S. Mittel, Mariah Nobrega, Lee Selwyn, Christine Westphal.

Absent: *Charles Swartz, Dennis Doughty, Angela Hyatt, Michael Sandman

The meeting was called to order at 7:30 PM.

Also in attendance: Alison Steinfeld, Director of Planning and Community Development; Joslin Murphy, Town Counsel; and Melissa Goff, Deputy Town Administrator

REVIEW OF FY2017 BUDGET: PLANNING AND COMMUNITY DEVELOPMENT

Kelly A. Hardebeck presented highlights of the subcommittee report.

Budget book data is out of date. There is now an additional \$63,640 for a Planner position. The Planning and Community Development department touches so many areas of the town. Overview of divisions – **Regulatory** – responsible for providing support to the Planning Board, the Board of Appeals, Preservation and NCDs and Climate Action Committee; provides guidance on special permits, zoning, land use and the design review process; **Community Planning** – funded by Federal funds; responsible for administering the CDBG and Housing funds; **Economic Development** – responsible for encouraging commercial growth in Brookline and fostering the success of businesses in the Town. In FY17, the Economic Development Division will become the Economic Development and Long-Term Planning Division and will employ 1 Director and 2 Planners (one of these Planners is the newly-created position).

Director of Economic Development has been spending a lot of time on the 9th School Project. The subcommittee wondered what the impact of this on other activities as a result. What are we losing by not having that person available? The new Planner position will be split between long range planning [and economic development. The combo of functions will move seamlessly between projects and provide support as needed.

Members of EDAB attended the subcommittee meeting and expressed their support of this position.

COMMENTS AND QUESTIONS

Lee Selwyn commented that he equated this de facto use of Director of Economic Development as an unauthorized budget transfer. The functions that were supposed to have been funded were not performed because the staff member had been diverted to School activities. School is running at a

deficit and while that may be a problem it doesn't justify usurping employees from other departments. When these kinds of things happen, the administration has an obligation to let us know in advance and not after the fact; wrong to preempt a function that has been funded and budgeted for another purpose and as an Advisory Committee member, he feels reluctant to spend time on the budget process if our efforts don't matter and we are reduced to a rubber stamp. Not a good practice.

A: Decision made by Town Administrator and acting School Supervisor with the Director of Planning and Community Development support.

Comment: Seems we had in house skills and we didn't use them.

C: Not Kara's area of expertise. Civic Moxie was finished by the time Kara was moved over. No way to know that Kara could do what the 4-5 people at Civic Moxie did.

C: Funding for major School projects supports time of other departments' staff (Engineering, Building). Perhaps we could look at a reimbursement to the Town for resources that are being taken up by the Schools in other contexts.

Alison: The Economic Development Director was providing support to the School Department, and now some new resources have enabled a plan to convert ED to Economic Development and Long Term Planning. Kara and Alison were involved in the hiring of Civic Moxie and Kara worked with the consultants and coordinated their work with the School department and other departments. Now with this position, we may be able to realize some of the potential the department has. I don't think the schools would be where they are without Kara's skills and talent and knowledge about the real estate market.

Q: Did the question ever come up with splitting the costs?

C: The planning process should reside on the Town side. The Planning department should be a resource for all town departments. The issue here is that an individual's time was taken up 100% and was not just providing support, resulting in losing the opportunity for that person to manage their other resources and do other things they were budgeted to do.

A: There are many examples of Town support and activities to the schools where the funding doesn't go through the split.

Alison: The Economic Development Director did not spend 100% of her time on school activities; nothing that needed to be done was left undone.

C: The concern that Lee was raising is a budgetary concern. If we are going to change the distribution of resources, we should have advance notice of that. From a bookkeeping perspective the standard in business is that if you are moving people between divisions, you should track their time and activities so you can make sensible budget decisions.

C: No one will dispute the fact that Planners should do planning instead of regulating. What was supposed to be done in Economic Development was done but loss of time to be able to pursue new avenues as opposed to just keeping up with what was supposed to be done at the time.

C: People should know how many dollars are actually going to the school and how many are going to the town side.

C: It does seem a little sleight of hand – it is wrong to misrepresent this in the school budget.

A: The decision point keeps moving; going through a process with a timeline, not quite sure when Kara's work will be done with the School Department.

C: Understand the moving parts but because it keeps shifting all the more reason to be up front about it.

Alison: Kara will continue to do the school work through October, at which time a decision will be made about a [9th school] location and it will be then turned over to the Building Commission.

Q: If Stop and Shop is chosen as a site, will her time continue to be needed?

Alison: Not sure at this time.

C: If it goes to October and we have Stop and Shop, you could say her time should be allocated equally between Town and School because she would be working on an Economic Development and School.

Alison: The department may have an additional staff person by that time which addresses my department's issue about getting work done but not the larger question.

Q: How will this new planning position complement EDAB?

A: EDAB is a board of citizens and volunteers that meets once a month and gives feedback to the Economic Development Director. When there are specific projects or proposed situations where there is some sort of committee put together, you may have some EDAB people there, like for the River Road issue. But in terms of day to day work they aren't really involved.

Q: The new position starts in July but do you need something to get you from here to July? Do you have enough horses in the barn with everything else going on outside of the school, can you do anything, do you need to do anything before July?

Alison: Can't hire anyone on a consulting basis, a temporary position would take too much time to train.

C: No issue with Kara doing it, but the fact that the School isn't paying for it. It should be on the School side of the budget.

Q: Exactly how was this decision made to have Kara be responsible for sending out the RFP, working with Civic Moxie and then continuing?

A: We were involved with developing the request for proposals. No one can seem to recall how it moved forward.

As I recall when the issue of Civic Moxie came up, it was appropriate for planning to put together that RFP, the schools didn't have the expertise and most people wanted it to be on the Town side and Kara was to manage the process and she did. Once the Civic Moxie report was delivered, Bill [Lupini] left and a decision had to be made as to what happens next. Civic Moxie report was just step one. What happened, happened and don't think it is wise to go back in time to be reimbursed from before; lesson learned that we try to have a better understanding of a senior person's time being allocated so deeply (unless it is something that is holistic to the entire town) – how many kids are going to be coming into the schools (aspects that went beyond economic development and planning).

C: I agree. We don't want to take our really good people and put them down some path they don't want to be on or we risk burning them out.

Q: What are major economic development projects that your department and Kara's time will be utilized for?

Alison: Three major economic development activities (and ongoing support of existing businesses)

- Industrial block at 320 Washington Street
- Durgin Waldo
- Route 9

And we have some consulting funds budgeted for those projects

C: It does strike me that people don't know what Economic Development is up to, if people are interested we could get someone here to give a brief update.

Q: Comments about 40Bs – 420 Harvard, 40 Centre, Puddingstone, etc. What do you do to get your arms wrapped about all of these? 1185 Boylston and Crowninsheld Road.

A: We have three in process currently before the State. Procedure includes a hearing, notices, etc. When an application is submitted to the town ZBA, then the State timeline takes over, eligibility letter is issued. We are geared up to handle it.

There are 3 subsidizing agencies each with varying stringency about their guidelines. Mass Housing Partnership, Mass Development, and Mass Housing Investment Corporation.

Q: What is a PEL?

A: Project Eligibility Letter. It states that a proposed project meets requirements for subsidized housing.

Q: How long does the window stay open for additional proposals?

A: If the Town is not at 10% at the time an application for a comprehensive permit is filled, then the ZBA needs to hear the case. If we are at or exceed 10%, then the ZBA can decline and the applicant can appeal to the State. If our numbers are confirmed by the state, the appeal will be denied.

If the town has a Housing Production Plan in place and delivers 131 SHI (subsidized housing inventory) eligible units of affordable housing a year, additional requests can be denied.

Q: Why do you need an HPP if we are getting to the 10%?

Q: Once we hit the amount we are supposed to hit, does the ZBA switch the burden of proof that they meet the criteria?

A: The minute a development applies, if the date is before we have met our requirements, they become eligible and stay in the pipeline.

A MOTION was made and seconded to recommend approval of the FY2017 Planning and Community Development budget of \$877,554.

Note: With a vote of 24 in favor, 0 opposed with no abstentions, the Advisory Committee recommends approval of the FY2017 Planning and Community Development budget of \$877,554.

REVIEW OF FY2017 BUDGET: LEGAL SERVICES

Steve Kanes provided highlights from the subcommittee's report and praised Town Counsel's office for its performance in addressing a very large and diverse workload.

Joslin Murphy provided a few thoughts about the work of her department and then acknowledged the hard work of her staff.

Associate Town Counsel Jonathan Simpson is a tremendous addition to our staff and has already provided a great deal of relief.

She expressed gratitude to the rest of the staff in the legal department who all stepped up when they were understaffed during some trying times.

They have been tasked with identifying protections afforded certain properties among Town owned lands. Began the research prior to attention taken by lawsuits and it is an enormous task that they will continue into the next two years.

She thanked Patty Correa who shepherded the medical marijuana dispensary program and brought it through the various licensing channels and John Buchheit, who worked on school leases for all satellite sites.

Superior Court appeals in Hancock Village case. This project should never have made its way to certification because the subsidizing agency didn't do its job. Originally was going to deny project eligibility. Mass Development didn't meet its requirements based on the regulations. Regulations don't allow for challenging eligibility determination at the outset. So we then challenged issuance of permit. Filed a motion for judgment on this question - did Mass Dev fulfill obligations under regulations and did it have the authority to grant the eligibility and funding. It has been a long, arduous road. The project is not in the best interest of the town.

Also, civil rights complaints/cases are taking significant time and effort.

Chapter 40B developments are a tremendous amount of work. Used outside counsel for Zoning Board of Appeals but staff attended all meetings, prepared materials and has had a great learning curve and will be able to support the ZBA going forward.

Plan to work on standardizing contracts and creating a check list process which hopefully will create more efficiency.

Questions:

Q: If we prevail on Hancock, what happens?

A: We have wanted subsidizing agencies to look at litigation and recognize their obligation to draft stronger eligibility letters. If the judge finds that the eligibility is not sufficient under the regulations, he would annul the comprehensive permit.

Q: About the budget and the new position – no change in funds. Is new attorney working for free?

A: Not a new position. We were understaffed for over a year.

Q: When do you expect the civil rights cases to be heard and if we lose, how will the result affect the town's budgeting?

A: There are no winners in these cases. Motions to dismiss have been filed, made public and so we expect a hearing on the motion within the next few months; full decision may be arrived at in 3 years give or take.

Q: What can you do to set policy in the town? The staff- led groups, such as the Babcock Street Staff Appointed Working Group and , Pay-As-Ypu-Throw Task Force often do not post their meetings.. Do you have any guidelines?

A: We have an open door model. We are available to come to meetings as needed. Open meeting law and public record law being met? Our department staff is happy to come to groups and provide guidance.

Q: Is there training for open meeting laws?

A: New committee members need to let us know if they need to be trained; once a year or when we have critical mass, we schedule training. Because we have been busy, we have been referring people to many excellent online resources.

Joslin will send those links out again.

A MOTION was made and seconded to recommend approval of the FY2017 Legal Services budget of \$955,774.

Vote: With a vote of 22 in favor, 0 opposed with no abstentions, the Advisory Committee recommends approval of the FY207 Legal Services budget of \$955,774.

Announcements:

Impasse on firefighter contract continues. They have been without a contract for over 5 years. JLMC will eventually reach a decision on this and the settlement will be significant. By law the selectman cannot oppose whatever the JLMC decides. Ultimately up to Town Meeting to make decision.

Next Meeting: The next meeting of the Advisory Committee will be on March 10th.

Upon a MOTION made and seconded and voted unanimously, the meeting adjourned at 9:35 pm.

Documents Presented at Advisory Committee Meeting:

1. PLANNING AND REGULATION SUBCOMMITTEE REPORT ON PLANNING AND COMMUNITY DEVELOPMENT FY17 BUDGET
2. PLANNING AND REGULATION SUBCOMMITTEE REPORT ON LEGAL SERVICES FY17 BUDGET
3. MEMO FROM ECONOMIC DEVELOPMENT ADVISORY COMMITTEE