

TOWN OF BROOKLINE ADVISORY COMMITTEE
Planning and Regulation Subcommittee Report
FY21 Program Budget for Legal Services

The Planning and Regulation Subcommittee of the Advisory Committee held a public hearing on Thursday, February 21, 2020, in Room 103 in Town Hall to review the FY21 Legal Services budget. In attendance were Subcommittee members Steven Kanen (Chair), Ben Birnbaum, Carol Levin, Carlos Ridruejo, and Lee Selwyn. Neil Wishinsky, another member of the P&R Subcommittee, was present but recused himself from participation in the hearing. Also present were Town Counsel Joslin H. Murphy, Director of Planning and Community Development Alison Steinfeld, Assistant Town Administrator Justin Casanova-Davis, Neil Gordon (AC), Fred Levitan (AC), Ruthann Sneider (TMM6), Roger Blood (Housing Advisory Board), and Paul Saner (Economic Development Advisory Board).

Budget Summary (See last page of report)

The FY21 Legal Services budget request is \$1,163,412, an increase of \$7,999 (0.69%) over the FY20 budget. The increase will cover step raises and a modest investment in professional subscriptions.

Budget Discussion

Town Counsel Murphy described FY20 as distinguished by a “robust litigation docket.” She noted that the Town is presently supporting four major cases in district or superior court “in various stages of litigation.” Two regard personnel matters; two are related to lawsuits brought by citizens. Ms. Murphy noted several additional “highlights” in FY20. These included defending against lawsuits by neighbors of the Baldwin School (the suits were dismissed following the failure of the May 2019 override); the taking of 111 Cypress Street by eminent domain for the High School expansion; developing an easement agreement with the MBTA for the same project; and negotiating a lease for BPS use of property belonging to the Maimonides School.

She also referenced work done for the Town in regard to marijuana regulations, and assistance provided to Planning Department staff who are shaping the short-term rental by-laws that may appear on the Spring Town Meeting docket.

The Subcommittee discussed an increased labor burden in Legal Services related to revisions to the Commonwealth’s Public Records Law that went into effect on January 1, 2017. Among other changes, the law now requires each municipality to appoint Records Access Officer(s); make new provisions for petitioner appeal of denials or redactions; mandates responsiveness to email requests; and poses the threat of attorney awards if the requests are not fulfilled within 10 business days—unless the municipality has offered acceptable reasons for a delay. Brookline has responded by adding records custodian responsibilities to the work of current staff in relevant departments. (The Town Clerk remains the Town’s lead RAO.) However, the work of *reviewing* the records selected in regard to any request still falls to the Legal Department. Moreover, petitioners will often ask for a wide range of documents when the goal in mind would be served by a narrower response. Those staff members within the departments with RAO responsibilities, however, may not have the training or experience that would allow them to successfully negotiate and “edit” the requests.

Among issues raised in the discussion by members of the Subcommittee was the potential for development of a more efficient process through the hiring of a senior town-wide Records Access Officer within Legal Services to review, negotiate, and manage the response to records requests. Mr Casanova-Davis, assistant town administrator, agreed to do a cost-benefit analysis with respect to such a potential hiring.

The Subcommittee also asked whether there was a protocol that under certain circumstances required departments to seek the counsel of Legal Services before entering into a contract negotiation. There is not.

Finally, the Subcommittee asked for two numbers that Ms. Murphy was able to provide in the days following the hearing. The departmental cost of handling legal issues for the Brookline Public Schools in FY20 was estimated to be \$123,664. The FY20 revenue from property damage claims totaled \$25,768.

The Subcommittee voted 5-0 to recommend approval of the requested Legal Services budget of \$1,163,412 for FY21.

Collapse All	FY19 Actual	FY20 Budget	FY21 Budget	2020-21 Variance	2020-21 Variance
▼ SALARIES	\$ 704,732	\$ 784,639	\$ 788,138	3,499	0.44%
(510101) PERMANENT FULL TIME	647,240	745,812	755,414	9,602	1.27%
(510102) PERMANENT PART TIME	25,045	33,127	33,224	97	0.29%
(510201) TEMPORARY FULL TIME	9,169	0	0	0	0.00%
(513044) LONGEVITY PAY	4,983	5,150	3,950	-1,200	-30.38%
(514510) SICK PAY BUYOUT	313	0	0	0	0.00%
(515058) VACATION BUYOUT	6,536	0	0	0	0.00%
(515059) A DAY BUYOUT	10,896	0	0	0	0.00%
(515501) CLOTHING-UNIFORM ALLOWANCE	550	550	550	0	0.00%
(OFFSETS) OFFSET	0	0	-5,000	-5,000	-100.00%
▼ SERVICES	393,068	251,309	255,809	4,500	1.76%
(522010) OFFICE EQUIP R & M	0	150	150	0	0.00%
(522015) D P EQUIP R & M	0	150	150	0	0.00%
(522016) COMPUTER SOFTWARE R & M	871	850	850	0	0.00%
(523011) COPY EQUIP RENTAL/LEASES	2,159	3,059	3,059	0	0.00%
(524008) GENERAL CONSULT SERVICES	328,293	200,000	200,000	0	0.00%
(525002) WIRELESS COMMUNICATIONS	1,850	3,100	3,100	0	0.00%
(528040) LITIGATION COSTS	38,159	22,500	25,000	2,500	10.00%
(528080) SUBSCRIPTIONS	21,735	21,500	23,500	2,000	8.51%
▼ SUPPLIES	1,724	4,500	4,500	0	0.00%
(531012) OFFICE SUPPLIES	1,724	4,500	4,500	0	0.00%
▼ OTHER	92,041	113,100	113,100	0	0.00%
(553010) PROFESSIONAL DUES/MEMBERS	3,320	4,600	4,600	0	0.00%
(553020) IN STATE CONFERENCES	1,699	3,500	3,500	0	0.00%
(556010) CLAIMS & SETTLEMENTS	87,022	105,000	105,000	0	0.00%
▼ BUDGETED CAPITAL	1,700	1,865	1,865	0	0.00%
(5A0017) LEASED COMPUTER EQUIPMENT	1,700	1,865	1,865	0	0.00%
Total	\$ 1,193,265	\$ 1,155,413	\$ 1,163,412	7,999	0.69%

Data filtered by EXPENSES, LEGAL and exported on February 19, 2020. Created with OpenGov