

**Town of Brookline**  
**Advisory Committee Minutes**

February 25, 2020

**Present:** Vice-Chair Carla Benka, Ben Birnbaum, Harry Bohrs, Clifford Brown, Carol Caro, John Doggett, Harry Friedman, Janet Gelbart, David-Marc Goldstein, Neil Gordon, Susan Granoff, Amy Hummel, Alisa Jonas, Janice Kahn, Steve Kanes, David Lescohier, Fred Levitan, Pam Lodish, Carlos Ridruejo, Chair Michael Sandman, Lee Selwyn, Kim Smith, Claire Stampfer, Charles Swartz, Paul Warren, Neil Wishinsky

**Absent:** Dennis Doughty, Carol Levin, Christine Westphal

**Also present:** Director of Planning & Community Development Alison Steinfeld, Town Counsel Joslin Murphy, Director of Information Technology Kevin Stokes, and Assistant Town Administrator Justin Casanova-Davis

**AGENDA**

**7:30 Question of redirecting previously approved Reserve Fund Transfer to provide for research, analysis, and consulting services regarding the possible rezoning and reuse of the entire site previously owned by Newbury College.**

Alison Steinfeld explained the request to redirect existing funds toward new use.

**Questions and Comments**

Negotiated a price for the west side and we will benefit either by owning it or by sharing the price.

Q: What was the total amount we bid? A: Close to what Well Tower paid about \$34M.

\$78K was used for test fits – schools, soccer field, pools, building department, etc. so an understanding of our proposed uses. Used 2 architectural firms which evaluated the academic building and the other did schools and structural analysis.

Q: Last \$28K for broader purposes? A: Yes.

Public has expressed desire to hear directly from real estate consultants. Notion that only volunteers have been doing negotiations is absurd; volunteers are experienced but have been working closely with our consultant experts.

Need to finalize negotiations. There are 8 warrant articles pending. Need consultants to provide guidance on the drafting of the articles and to be prepared to discuss them with the Advisory Committee and other committees.

Q: Why rezoning on west side? A: Short term uses for academic building will be for municipal support services. We will create a new overlay district for the west side to allow for this change. Don't want to risk variance.

Q: What happens to the property if we don't get the change? A: Dover use – non-profit.

A **MOTION** was made and seconded to redirect previously approved Reserve Fund Transfer to provide for research, analysis, and consulting services regarding the possible rezoning and reuse of the entire site previously owned by Newbury College.

By a **ROLL CALL VOTE** of 18 in favor, none opposed, and 4 abstentions the motion carries.

BENKA	Y	GORDON	Y	SELWYN	A
BIRNBAUM	Y	GRANOFF	A	SMITH	Y
BOHRS	Y	HUMMEL	Y	STAMPFER	A
CARO	Y	KANES	Y	SWARTZ	A
DOGGETT	Y	LESCOHIER	Y	WARREN	Y
FRIEDMAN	Y	LEVITAN	Y	WISHINSKY	Y
GELBART	Y	LODISH	Y		
GOLDSTEIN	Y	RIDRUEJO	Y		

## 7:50 Review and Possible Vote on FY 21 Operating Budget - Legal Services

Ben Birnbaum provided an overview of the subcommittee’s deliberations on the Legal Services budget. Two upgrades – one for step raises and associated costs, and one for subscription services (QuestLaw). Further details may be found in the subcommittee report included at the end of these minutes.

Joslin added a few clarifying comments:

In the Baldwin case, it was dismissed by judgement with prejudice versus withdrawal.

We have made an effort to improve our response to public records requests. We have been asking departments to have a person within each be the one to respond to these. Providing training so they know what is responsive and what may be considered privileged, confidential, etc. The requests have become more frequent and more voluminous.

### Questions

Q: Record Access Officer – Town Clerk has lead responsibility for this. What are you doing in his absence? A: His duties have fallen to someone else in his office and the legal office. We have taken on the burden of responding.

Q: What is the benefit to using records access rather than discovery? A: It is a tool – pre-litigation activity.

Q: We added someone to your staff last year – how is that going? A: Two needed people, a paralegal who replaced another; and a labor and employment counselor. Looking forward to him working with department heads to fend off complaints and grievances before they grow. It may have the financial impact we hoped for despite some lingering cases from the previous HR model.

Q: Bringing cases to resolution – any light at the tunnel? A: No settlements in the last fiscal year. Most cases you are familiar with are still on-going.

Q: Are legal costs associated with marijuana dispensaries paid for by NETA? A: We would look to have some covered by the community impact fee and we will seek that.

Justin added that currently no Host Community Agreement Revenue has been allocated to the Legal Department. There was the suggestion to have the dispensaries cover some of these costs. There have been internal discussions around this point.

Q: What does your office do particularly well? A: Answering in the moment questions. Approached daily by staff who have quick and easy questions – responding to public records requests, etc.

Q: What don't you do well or what do you do that your office shouldn't do in a perfect world? A: Great question. Currently have a lot of niche areas where it used to be more general. Those are the times we reach out to outside counsel. I'm a fan of the in house counsel model, though.

Q: If you had unlimited money what would you do? A: I would never look at a public record appeal again.

Justin added that these are the types of questions the 6<sup>th</sup> floor does ask during the budgeting process to get an understanding of what departments genuinely need. Don't just tinker with previous year's numbers but we have limited numbers and can't always do all that we want to do.

Q: Are the legal services included in the Town School partnership split? A: Legal services for School Department have changed; their model has changed quite a bit.

There was a recommendation to put some time aside to have an evening devoted to education around the Town School partnership.

Q: Is the amount \$123,664 included in the fully loaded costs for the School? A: No, it is a percentage of legal staff time used for School legal issues – benefits and building are charged back to the State.

Q: Do we use interns at all? A: Yes and we have one right now, usually one or two a year.

A **MOTION** was made and seconded to approve the FY 21 Legal Services budget of \$1,163,412. By a **VOTE** of 21 in favor, none opposed, and no abstentions the budget is approved.

### **8:30 Review and Possible Vote on FY 21 Operating Budget - Information technology**

Harry Bohrs provided an overview of the Admin and Finance Subcommittee consideration of the IT budget. Highlights included service provider fees, the Town's IT security preparedness, 5G technology, and resumption of IT (Citizen) Advisory Committee (ITAC) meetings.

Kevin Stokes will be leaving and this will be a loss of institutional knowledge and transition issues.

The budget was unanimously approved by the subcommittee.

Kevin Stokes noted the budget is largely stable from last year and the biggest increase is multiple service contracts the costs of which have moved from Capital to Operating since providers have changed from selling licenses to a per-user per-month pricing model.

### **Questions**

Q: Where are you going? A: Going back to private sector to help with a start-up, great opportunity for Kevin and his family.

Q: Can you provide an ITAC meetings update - no minutes posted - and more about security? A: ITAC reestablished over the summer – added new members so currently 8 people. Group met to agree on focus and charter and identified security and risk. What is a good role for the ITAC to leverage lots of expertise? We are looking at potential costs for security assessment.

Q: Do you keep statistics on hacking? A: Too much data almost 2 million a day – desperate and benign – that’s what firewalls are for. Do security training for staff. Can’t address what folks come after us and what they want to do so we focus on best practices and we are diligent.

Q: On hacking, do we have insurance for hacking and being held hostage? A: We are looking into this. Lots of cyber insurance discussions end up with the question, “Are you secure?” The marketplace is still evolving but if you have it, rarely is it made public so you don’t make yourself a target.

Q: Secure yourself that you have stuff backed up somewhere, do we? A: That assumes your back-ups aren’t compromised. If you can prevent someone from infecting your back-ups then you are secure.

Q: As TMM most of us have contact with the Town Website and Electronic voting and audio visual stuff at Town Meeting. How well do you think it is working? A: Town Clerk, IT and BIG are jointly responsible for Town Meeting. AV is still a struggle and we don’t have a staff to handle it. Larger issue is we have 43 buildings and with staff and making sure everything is working everywhere is challenging. We have 10,000 devices and the wiring in the auditorium needs some work.

Q: Are you happy with the website? A: Majority of use is to pay a bill and do some other basic functions. Conversation on the site never ends because it is always evolving. Continually try to make it better.

Q: Payroll software - have problems been resolved? A: Haven’t heard any more issues with MUNIS so it has been fixed.

Q: Any plan to improve the ability of Town Meeting and others to do searches for documents? A: We have 6 or 7 thousand documents on there. We are challenged with how docs are created, formatted, and tagged.

Q: 80% of the website may be used for financial matters and we are struggling with transparency in the Town and it is important that people be able to find things. A: We try to co-locate some of our budget documents for example do it is easier to find it.

Combined Report take the time to bookmark the Articles, for example? Bylaws being searchable and with a revision history is key as well.

Kevin added that this community values technology and you have been very supportive through the years. Whoever gets this job will get a pretty good gig! This is a great place to work.

**A MOTION** was made and seconded to approve the FY21 IT budget of \$2,124,234. By a **VOTE** of 21 in favor, none opposed, and no abstentions the budget is approved.

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Upon a **MOTION** made and seconded to adjourn, and voted unanimously, the meeting was adjourned at 8:55 pm.

**Documents Presented:**

Administration and Finance Subcommittee Report on FY21 Information Technology Budget  
Planning and Regulation Subcommittee Report on FY21 Legal Services Budget

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

BROOKLINE ADVISORY COMMITTEE  
Administration and Finance Subcommittee  
**Report on FY2021 IT Department Budget**

The Administration and Finance Subcommittee held a public hearing on Monday February 24<sup>th</sup>, 2020 to review the Information Department budget. In attendance were Harry Bohrs and Dennis Doughty for the subcommittee; Kevin Stokes, Director of the Information Technology Department; and Melissa Goff, Deputy Town Administrator.

The Advisory Committee's proposed operating budget information appears on pp. IV-10 to IV-12 in the FY2021 Financial Plan. However, **these numbers for FY20 do not conform** to the numbers presented through the OpenGov portal, therefore and all numbers referenced in this report come from the portal. We have been assured that in future budget reviews the printed version (if any) and the online versions will be identical.

**RECOMMENDATION**

By a vote of 2-0-0, the Administration & Finance Subcommittee recommends including funding of \$2,124,234 for the Information Technology department in the fiscal year 2021 budget.

In addition, the subcommittee has learned that Mr. Stokes has submitted his resignation and will be leaving his position as of March 6<sup>th</sup>. As of the time of this writing, we are unaware of any written job description, any identified replacement candidates, or any formal transition plan, which we regard as a serious risk.

**Discussion**

The proposed 2021 budget totals \$2,124,234 an increase of \$69,488 (3.3%) over the FY20 budget of \$2,054,746.

Mr. Stokes, the Director of Information Technology (DIT) reviewed the IT Department budget which is essentially flat except for two items: (a) a \$4,488 Personnel STEPS increase and (b) a \$65,000 increase in the software/services budget. This increase covers increased fees to various service providers (most notably Accela and Laserfiche). Under prior years evidently the consulting budget was tapped to cover these increases but this has become untenable, exacerbated by the Department's desire to run a comprehensive risk assessment over the summer.

These increased service fees are in line with prior projections made by the Department during prior budgets as costs have shifted from Capital to Operating as the technology providers move from selling licenses to selling a per-user/per-month pricing model.

There was an extensive discussion regarding the Town's IT security preparedness and the Subcommittee was happy to learn about the coming risk assessment. Before the Town selects a vendor for this assessment Mr. Stokes plans to involve the Schools in this process; the Schools have higher risk due to teacher-provided devices being present on the network and the heightened sensitivity of student data.

Mr. Stokes commented that the biggest “day to day” problem his office faces is electric power reliability, particularly at the high school.

There was a lengthy discussion about the emergence of 5G technology and whether the Town is positioned to extract additional revenues because the number of antennas sited on utility poles will presumably increase. The Town has agreed to attractive terms with several wireless operators; unfortunately the FCC has recently issued a ruling which has led the operators to argue that they should be paying less. This is still under active debate.

During last year’s budget review the Subcommittee expressed concern that the ITAC had not met for some time. This has been remedied and the committee has had two recent meetings.

The Subcommittee is pleased to report that the sound system in Room 103 is scheduled to be upgraded on April 21<sup>st</sup>.

By a vote of 2-0-0 the Subcommittee recommends FAVORABLE ACTION on the budget as presented online.