

Planning and Regulation and Capital Subcommittees  
Warrant Articles 2 and 3 (Special Town Meeting One)  
Warrant Article 1 (Special Town Meeting Two)  
March 19, 2019

The Advisory Committee's Planning and Regulation and Capital Subcommittees held a public hearing on Warrant Articles 2 and 3 of Special Town Meeting One and Warrant Article 1 of Special Town Meeting Two on March 7, 2019 beginning at 5:30 pm in Room 103 of Town Hall. The hearing was subsequently continued to 5:30 pm on March 13, 2019 and also held in Room 103 of Town Hall.

Attending the first session of the hearing were Subcommittee members Pam Lodish, Harry Friedman, Steven Kanes, Lee Selwyn, Carol Levin, Cliff Brown, Amy Hummel, John VanScoyoc, and Carla Benka; Select Board members Neil Wishinsky and Nancy Heller; Town Meeting members John Harris, Paula Friedman, Janice Kahn, John Doggett, and Regina Frawley; and members of the public Jenny Doggett, Anu Advani, and Peter Bleyleben.

Attending the second session of the hearing were Subcommittee members Harry Friedman, Steven Kanes, Lee Selwyn, Carol Levin, Cliff Brown, John VanScoyoc, and Carla Benka; Select Board members Neil Wishinsky and Nancy Heller; and Town Meeting members John Harris, Janice Kahn, John Doggett, Claire Stampfer, and Regina Frawley.

### SUMMARY

Three Articles addressing the purchase of the Newbury College campus appear on the Warrants for Special Town Meetings One and Two. Two of the articles ask for specific action (Article 2 of Special Town Meeting One and Article 1 of Special Town Meeting Two), while one is a resolution (Article 3 of Special Town Meeting One).

The Subcommittees recommend **No Action** on both Article 2 of Special Town Meeting One and on Article 1 of Special Town Meeting Two. The Subcommittees recommend **Favorable Action** on Article 3 of Special Town Meeting One, a Resolution that affirms the Town's interest in acquiring the entire campus for future school and municipal purposes.

### BACKGROUND

On December 14<sup>th</sup>, 2018, Newbury College announced that it would cease operations in May 2019. Shortly after the announcement, a group of Town Meeting members began to gather signatures for a petition that requested the Select Board to convene a Special Town Meeting to consider the acquisition of the entire Newbury College campus, which is comprised of approximately 7.8-acres of land and eight buildings on Fisher Hill, and is currently assessed for approximately \$39.2 million.

Among the buildings are an Academic Center with a number of classrooms, laboratory rooms, a library, and other facilities, a Student Center containing common dining facilities as well as approximately 100 dormitory rooms of between 250 and 300 square feet each, and several large mansion-type houses that the College has been using for both classrooms and offices.

The land is zoned S-15 and S-25. As of right, the property could be divided into 13 house lots according to an analysis done by Colliers International, the broker hired by the Newbury trustees to manage the sale of the campus. At least one (and perhaps two) of the existing buildings is non-conforming in terms of size (in the context of existing single-family zoning). The educational use of all of the buildings in this residential neighborhood is non-conforming but is permissible under the Dover Amendment for religious or educational entities.

For additional information on the campus and its buildings, please see the attached map, excerpts from the 2014 Newbury College Master Plan developed by Stantec, and <http://thecommon.colliers.com>.

Over 300 registered voters signed the Citizens' Petition, which was subsequently submitted to the Select Board on January 9<sup>th</sup>, 2019, along with requests that the Board "engage in an expedited review of relevant factors for the acquisition of this site" and that the Special Town Meeting be convened on or prior to, April 9<sup>th</sup>, as governed by the statutory 90-day deadline triggered by the submission of the petition on January 9<sup>th</sup>.

Two days before the submission of the petition, the Economic Development Advisory Board (EDAB) had discussed the college's closing at its monthly meeting. Members of the public attending the January 7<sup>th</sup> EDAB meeting expressed support for the Town acquiring the entire property, not only to control its future development but also to utilize it for a range of school and municipal needs.

On January 8<sup>th</sup>, the Select Board voted to appoint the Newbury College Acquisition Advisory Committee "to examine, analyze and report on the legal, procedural, and financial issues, as well as provide strategic advice and a preliminary use analysis, for the possible acquisition of some or all of the Newbury College property on Fisher Hill." The ten-member Committee, which was appointed on January 15<sup>th</sup>, included representatives from the Select Board, School Committee, Building Commission, Advisory Committee, Planning Board, and Fisher Hill neighborhood as well as individuals with professional expertise in real estate development and finance.

On January 22<sup>nd</sup>, the Advisory Committee, by a 21-1-0 vote, approved the Select Board's request for a \$150,000 Reserve Fund Transfer to support the activities of the Newbury College Acquisition Advisory Committee including, in particular, the engagement of qualified professionals to advise the Committee with respect to the potential acquisition. Information stemming from an appraisal, a title search, a Phase One environmental study, architectural planning services, a test fit for a school and outside legal services were also

identified as likely being needed by the Acquisition Advisory Committee, and the use of the Reserve Fund dollars for these purposes was taken into account by the Advisory Committee when it approved the request.

Also on January 22<sup>nd</sup>, the Select Board voted to convene two Special Town Meetings. The Warrant for Special Town Meeting One included three articles, one that related to a collective bargaining agreement and two that related to the acquisition of Newbury College. Article 2, submitted by the Select Board addressed the potential mechanisms and the process for the Town to acquire Newbury College property. Article 3, a resolution submitted by Town Meeting members John Harris and Anita Johnson, called upon the Town to pursue acquisition of the Newbury College campus.

The Warrant for Special Town Meeting Two included just one article: “To see if the Town will raise, appropriate or transfer a sum of money to fund the costs adequate to appropriate some or all of Newbury College property or properties to situate an elementary school.”

## DISCUSSION

At the March 7 public hearing, Select Board Chair Neil Wishinsky noted that the Newbury College Acquisition Advisory Committee had held a number of meetings, most of which were in Executive Sessions because the Committee’s discussions focused on the purchase and value of real estate. Having such discussions in public was determined to have a potentially “detrimental effect” on the negotiating position of the Town.

He further noted that one of the Committee’s principal tasks was to formulate a bid strategy, and he believed the Town was well positioned to make a credible bid. An offering memo from Colliers International had recently arrived, announcing that copies of the prospectus would be released to qualified bidders who signed a non-disclosure agreement. (The Town is considered a qualified bidder and a non-disclosure agreement has been signed.) He also stated that a call for offers was expected in April (although that date may slip) and that there could be multiple rounds of bidding. Newbury College trustees have stated that the campus would not be sold piecemeal.

### **Article 2**

Subcommittee members first discussed the two-fold intent of **Article 2**. If approved, the Select Board would be authorized by Town Meeting to acquire by “purchase, gift, or eminent domain” all or some of the seven parcels of land comprising the College’s campus. The expenditure of a sum of money to effect that acquisition would also be authorized by Town Meeting. No specific sum has been included in the article since the amount of the Town’s bid has not been determined. The same article has also been submitted to the Warrant for the Annual Town Meeting in May, in the event that the bidding process for the property has not concluded by April 9<sup>th</sup>.

Members of the subcommittees considered the possibility of including a bid number in Article 2, even if it were just in the context of “up to” or “not to exceed” x amount of money. That idea was eventually dismissed because it seemed to have a greater chance to encourage, rather than discourage, potential buyers.

### **Article 3**

John Harris, co-author of the Resolution under **Article 3**, expressed the belief that the campus should be purchased because it offered the Town a once-in-a-lifetime opportunity to acquire almost eight acres of land that could be used for any number of municipal and educational uses, including, but not limited to, affordable housing, open space, recreation facilities, Town offices, and education facilities. He also stated that he found Article 1 of Special Town Meeting Two to be too restrictive in that it called for purchasing the property for the siting of an elementary school.

While one member of the public questioned whether a use or uses for the property shouldn't be identified before proceeding to bid, the vast majority of the hearing's attendees believed that deciding on use should not be a hurried process. One member of the subcommittee noted that it took almost ten years for the Town and the neighborhood to decide what to do with the Open and Covered Fisher Hill Reservoirs but because the process allowed for thought, discussion, and negotiation, the outcome was one with which the vast majority of participants and other members of the public were satisfied.

While supportive of the intent of Article 3, Subcommittee members questioned some of its wording, including such phrases as “good faith” and “with all deliberate speed.”

### **Article 1 (Special Town Meeting Two)**

Town Meeting member Regina Frawley, who worked on and collected signatures for the Citizens' Petition, noted that she initially submitted Article 1 with its focus on the use of the site for an elementary school because she believes that in the coming years there will be significant residential growth in the Town. Her belief is based in part on the perceived need for 185,000 new housing units in the Greater Boston area by 2030 to meet demand and to reduce (or at least stabilize) housing costs. The number of needed units has been established by The Metro Mayors Coalition, which represents 15 municipalities, including Brookline. (<https://www.mapc.org/planning101/metro-mayors-announce-185000-unit-production-goal/>) Boston Mayor Marty Walsh has committed to 69,000 units.

In the explanation for Article 1, the petitioner wrote that “Newbury is adequate for ANY growth of student population” and that its purchase would eliminate the current 9<sup>th</sup> School “struggles and divisiveness witnessed across town” in any possible future search for a new school site. In the public hearing, she emphasized that she was not suggesting that Newbury be considered as an alternative to the Baldwin School site to locate a 9<sup>th</sup> K-8 school.

Subcommittee members noted that Article 1 lacks a legal description of the property, does not explicitly allow for uses other than an elementary school, and does not authorize the Select Board to acquire the property after adequate funds are raised. It also does not mention eminent domain as a mechanism for acquiring the property.

During the March 13<sup>th</sup> session of the hearing, the subcommittees were presented with amended versions of Article 2. Subsequent discussion led to further revisions and a resolution that members supported because it 1) specifies the purchase of the entire campus; 2) identifies the due diligence and the efforts that have been made and will continue to be made to acquire the property; 3) notes the possibility of using the Town's eminent domain authority; and 4) allows for a wide range of future uses for the property.

## RECOMMENDATIONS

### **Article 2 (Special Town Meeting One)**

There being no specific bid on behalf of the Town at this time, by a vote of 7-0-0, the Subcommittees recommend **No Action**.

### **Article 3 (Special Town Meeting One)**

By a vote of 7-0-0, the Subcommittees recommend **Favorable Action** on the following motion:

## RESOLUTION CALLING FOR THE ACQUISITION OF THE NEWBURY COLLEGE CAMPUS BY THE TOWN OF BROOKLINE

**WHEREAS**, Newbury College, situated in the Town of Brookline, announced on December 14, 2018, that it was closing its doors and was looking into selling its approximate 7.8-acre campus; and

**WHEREAS**, the potential sale of the Newbury College campus provides a unique opportunity for the Town to acquire property that may be used to help meet a variety of current and future municipal and school needs, including open space, affordable housing and educational facilities, among other uses; and

**WHEREAS**, the Select Board has been pursuing the possible purchase of the Newbury College campus and has been assessing the cost and benefits of such acquisition;

**NOW, THEREFORE, BE IT RESOLVED**, that Brookline Town Meeting believes it to be in the best interest of the Town that the Town acquire the Newbury College campus; and

**BE IT FURTHER RESOLVED**, that Brookline Town Meeting calls on the Select Board to work as quickly as is prudent and practicable with other Town boards and departments to:

1. Continue to pursue the purchase of the Newbury College campus, including consideration of the use of eminent domain authority; and
2. Consider appropriate financing strategies to effect the acquisition.

**Article One (Special Town Meeting Two)**

By a vote of 7-0-0, the Subcommittees recommend **No Action**.