

Town of Brookline
Advisory Committee Meeting Minutes

April 23, 2020

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

Also present: Planning and Community Development Director Alison Steinfeld, Economic Development Director Kara Brewton, Economic Development & Long-Term Planner Meredith Mooney, Small Business Development Committee Chair Raul Fernandez and Members Sam Glasgow, Talia Glass, EDAB Chair Anne Meyers, Housing Advisory Board Chair Roger Blood, Town Counsel Jocelyn Murphy, School Committee Member Sharon Abramowitz, Representative Tommy Vitolo, Town Meeting Members Deborah Brown, Mark Levy, Donelle O'Neal, Anne Trecker, and John VanScoyoc, Restaurant owner Jamie Siracusa, and members of the public Tyler Donaldson, Kesley Whale, and others.

Announcements: Pursuant to this Board's Authority under 940 CMR 29.10 (8), all Advisory Committee Members will be participating remotely via telephone or video conferencing due to emergency regulations regarding the Corona virus. The Chair has reviewed the requirements of the regulations. There is a quorum physically present and all votes taken will be recorded by roll call so all above listed Advisory Committee members will be allowed to vote.

AGENDA

7:30 pm Public Hearing and possible vote on the following Warrant Articles for the 2020 Annual Town Meeting:

- **Article 5 - Unpaid Bills (Select Board)**
- **Article 25 - Legislation pertaining to the reallocation of liquor licenses (Sam Glasgow and members of the Small Business Development Committee)**

Questions & Comments

Cliff Brown offered a bit of background on Article 5. The issue involves the non-payment of bills sent by Simmons College for student interns who had worked in PSB. Due to a series of events and bad timing, the bills didn't come to the Town until earlier this year. Expenses incurred via a process that the School Department is trying to clean up. Contract signed by unauthorized personnel and no encumbrances put in place to pay for these. No Purchase Order created until after the service was provided which is not how things are supposed to be done. Invoices had been going to a dead email addresses and people who may have understood what was going on had left the Town and also no longer worked at Simmons. Someone new in the position only recently discovered old and unpaid invoices from Simmons. Town Comptroller is saying the funds must come from operating funds which the School Department doesn't have so they are trying to find another source of funds for payment.

Don't have knowledge of where the money will come from so not sure we can take a vote on this. Need to come to some resolution with the Comptroller to determine where the funds are to come from.

Q: Any recommendation to the School and Town Administration to prevent this from happening again? A: The mechanism technically exists but the School Department at the time was entering into contracts without going through proper channels. Mary Ellen Normen is now on top of this. Simmons does not have an authorized contract because it wasn't signed off on correctly. But services were delivered.

Q: School or Town responsibility? A: School Department responsibility but the issue is this is an expense that was incurred in a different fiscal year, wasn't anticipated to come out of current fiscal year budget so Schools may not

have the funds to pay for this out of their operating budget so needs to be paid another way. Bills of this type need to go to Town Meeting for approval thus the Warrant Article.

Q: If TM passes this as drafted, does it get charged to Town operating expenses? A: If the Schools cannot come up with the money, then it is not coming out of Town's operations but from the reserve fund. Reserve fund is used almost exclusively for Town expenses but no reason why the School cannot use it also.

Comment: Yes we got these services but Simmons is culpable also since they didn't bill correctly and didn't send invoices in a timely way. Don't you typically get on the phone if someone owes you money?

Simmons was sending but to a dead mailbox. This would seem to be a problem with our IT Department, given the situation when someone leaves the Town and their emails are not forwarded correctly elsewhere. Person who knew about it also left Simmons so it fell through the cracks on all sides.

A **MOTION** was made and seconded to table action on Warrant Article 5. By a unanimous VOTE of 28 in favor, none opposed and no abstentions, the Advisory Committee tabled action on WA 5.

Janice Kahn gave some background on Warrant Article 25 and allocation of liquor licenses.

Representative Tommy Vitolo will not advocate for or against any home rule petition that requests the State to do anything. His diligence in this matter has been to work with Chair Tackey Chan who co-chairs the Licensure committee of the State Legislature. The state is still conducting business while simultaneously working on Covid-19 issues. If TM passes this, the legislature would be willing to enact the law. Need to pass it in June to allow time to work it through before it expires in October. He added that there are still 2 liquor licenses if a business in Washington Square wants one; the day after Town Meeting the home rule petition gives the legislature authority to amend the language to reflect new wishes and reality. There is flexibility.

Talia Glass, owner of Allium Market and Café in Coolidge Corner is interested in purchasing one of these licenses. Adding beer and wine to their menu would add stability to her business, extra revenue and help to make up losses. Personally would love one and for most businesses it would be a huge way to earn back loss of revenue during this period of time.

Q: It doesn't matter which combination TM votes on? A: It matters that you ask for what you want because if nothing changes that is what you will get. But if between late June and it gets to the floor if it turns out there is a reason for a change, we can consider it.

The Select Board did not petition this. Working backwards it is the State Legislature's decision and they would defer to Tommy if there was a reason to make a change and he would defer back to the Select Board unless Town Meeting suggests that he defer to elsewhere.

Q: Has anyone consulted EDAB and if they have an opinion on it? A: We have some members online. We did talk about this at EDAB and they agreed that it made sense for Small Business Development Committee (SBDC) to proceed with this.

Sam Glasgow agreed that SBDC would defer to the Select Board. This is really about giving us a choice because if we don't pass this, the licenses go away.

Q: Any way to write the petition so that licenses don't need to be geographically identified? A: Yes but if written that way, it will fail in committee.

Q: Concern about the restaurant in Washington Square that has been closed – former Fireplace – does the space still retain that license? A: In conversation with that restaurant owner, trying to open with the license they have; Town has begun a claw back process which will take up to 2 years. There are a couple of other general licenses we still have available.

Q: Is the SBDC on track to making a recommendation? Where is the leadership to get a definite proposal in front of Town Meeting? A: Requested Sandy's support and he recommended that Select Board make the recommendation at TM.

Q: If whoever decided that Washington Square needed 3 licenses, why not request an extension? A: We petitioned for 40 went before committee at the State House and they made a decision about how many should go to which areas.

I don't think we should make radical changes but rather work strategically and flexibly with what we have.

Comment: The reason why the legislature changed the home rule petition because we filed it a way we weren't supposed to. Selection of particular commercial areas was done by the Town in conjunction with the Committee. Not just Tackey Chan deciding. So we do have some flexibility as long as it is commercial areas and not specific locations.

Q: Is there any way to licenses that don't have 2-year expiration or is that not something that can be considered? A: Expected the Chair to give a one year extension and that he suggested 2 was surprising.

Q: Do other towns have time limits on their liquor licenses? A: Not sure it is a problem even during Covid-19

A **MOTION** was made and seconded to recommend favorable action on Warrant Article 25. By a VOTE of 27 in favor, one opposed and no abstentions, the Advisory Committee recommends favorable action on WA 25.

8:00 pm Discussion and possible vote on the following Warrant Articles for the 2020 Annual Town Meeting:

- **Article 18: Affordable Housing Trust Fund legislation (Department of Planning & Community Development)**
- **Article 19: Housing Advisory Board By-law amendments (Department of Planning & Community Development)**

Carlos summarized the subcommittee report and provided the reason behind the two Articles. Article 18 seeks Town Meeting authorization to accept Massachusetts' Affordable Housing Trust Fund law (M.G.L., c. 44, s. 55C). This action would establish the Town's Affordable Housing Trust Fund under the provisions of this statute. Because there are two important initiatives that could entail significant new contributions to the Affordable Housing Trust Fund on the warrant for the 2020 Annual Town Meeting, Town Counsel has recommended, largely as a matter of housekeeping, that the Brookline's Affordable Housing Trust Fund be established under the provisions of M.G.L. c. 44, s. 55C. Article 18 authorizes Housing Trust fund in line with State requirements. Article 19 seeks to amend Article 3.13, the Housing Advisory Board by-law, to resolve differences between Brookline's current by-law and M.G.L. c. 44, s. 55C.

Questions & Comments

Q: This applies to affordable rental housing only? A: No it is all affordable housing. Roger Blood elaborated that it applies to owner and rental but overwhelming rental.

Q: Why are you going to 8 members on HAB – usually customary to have an odd number? A: The main reason is that the Town bylaw refers to a very specific range of skills to be found on the HAB and seats coming from specific sources. The current HAB has satisfied that in the past, over time not clear what housing skills the Select Board

member will bring or what level of involvement it will be necessary to have but more effective for mission fulfillment to have eight members, if one is to be a Select Board member.

Town Counsel noted that the report was very thorough and agreed that these are mostly housekeeping actions, to align with requirements of the State statute.

Community Preservation Act will be coming back in a warrant proposal for the next Town Meeting. If we didn't pass 18 and 19, the CPA would not allow what it is intended to do which is to channel money through the Housing Trust.

Q: Some linkage between these and the Newbury College articles, what is it? A: The link is basically Affordable Housing Trust making these two items to put them into compliance. Up until now any money that had been given to the Housing Authority Trust fund by developers, like Newbury for example, were given as gifts and not directed into the Trust as will be the case going forward. Allow us to put the money in Housing Trust Fund. This \$6.5 million would be the largest sum that they would receive in a lump sum so good to have everything in place if that option is selected.

A **MOTION** was made and seconded for favorable action on Warrant Article 18. By a vote of 27 in favor, one opposed and no abstentions, the Advisory Committee recommends favorable action on Warrant Article 18.

A **MOTION** was made and seconded for favorable action on Warrant Article 19. By a vote of 27 in favor, none opposed and one abstention, the Advisory Committee recommends favorable action on Warrant Article 19.

8:30 pm Further discussion of Select Board's Recommendations for Articles to be considered at the Annual Town meeting, tentatively scheduled for June 23, 2020

Carla reminded everyone that we were to revisit our previous conclusions about how to handle warrant articles not included in truncated warrant. To take articles approved by a majority to Town Meeting – push them off for a few weeks. Adjourn Town Meeting then reconvene. The Moderator noted that the problem was that the budget wouldn't be considered approved until Town Meeting had been dissolved and we need to be done by the end of the fiscal year so we need to come back with another approach. Give the other articles "a lick and a promise" or can support their being deferred to a later Town Meeting with no amendments or modifications. Or we could hold hearings on all of those articles.

Q: Can you give us an idea when we would see new budget and subcommittees would have dates to look at this? A: Deputy Town Administrator has not taken up revised budget with department heads yet and Brookline and other municipalities have no further information on future revenue declines. Staff will present budget to Select Board on June 2nd. Hoping around the 15th of May we will have something more concrete to work with.

Q: When is next Advisory Committee? A: Planning and Regulation having hearing on 29th and when they are ready to give a report we will reconvene.

June 23 is an artificial deadline and using it as stake in the ground, but we should set a Town Meeting date once we have the information we need. State Legislature has given municipalities the flexibility to do this by allowing them to approve not less than 1/12 of the previous year's budget for each month without a new budget.

8:45 pm Report on April 17 Town School Partnership Meeting

9:00 pm Other Business

Michael Sandman gave an update on the progress of virtual Town Meeting. The percentage and totals will come up during the meeting but the actual roll call will be published the next day. IT is still researching 3rd party voting application. Reluctance to add a layer of complexity but if user friendly will try to use it. Roll will be available right after the meeting for verification. Concern was raised that there will be time for people to agitate and lobby for vote changes. In the event that a vote was so close as to be easily swayed, Sandy would fall back on roll call vote. The Committee has considered all consequences.

Carol Levin offered an update and overview of a recent Pierce School Building Committee meeting – expenditures of capital, need for guidance for some of these big projects and some related concerns. While there is some awareness that the world is different, this project and Driscoll are going ahead as planned because Town Meeting has authorized funding the feasibility studies.

No one in Town right now saying let's step back and reconsider what we are doing. We are going to have to make some physical changes – healthy buildings vs green buildings. We need to create a pause until we can consider these things and there is no one has this in their portfolio and want to raise this to decide what we should do.

Carlos added hoping that when Driscoll comes back with its 50% design development number we may revisit to determine if we can afford to spend that way or if we need to cut it back the way a private company would be thinking. Construction costs should probably go down as they did in the last downturn but we aren't sure about that. Regarding physical design there has been a lot of talk from restaurants, banks, pharmacies, and where there are groups of people, there may be changes about the physical space and ventilation – healthy buildings versus energy efficiencies in conflict or balanced. Always have been having this conversation but brought more to light given recent Covid-19 situation.

Can we put the brakes on a process that seems to be moving forward inexorably? Begin to have discussion with School Committee or MSBA, to pull it off schedule would be an interesting exercise.

Neil Wishinsky added that there are gates for each phase of the process, and when the project has gone through all the gates, the money is released. So Town Meeting voted to fund Driscoll, voters have agreed to raise the levy, so unless the Select Board and / or School Committee decide to step on the brakes or Town Meeting passes something that claws back money, the project will go forward. If contracts have been signed, we'd have to honor those. Not a lot of things we can grab onto with Driscoll.

With Pierce Town Meeting has voted the design money, and if intent to go full steam ahead – cannot rescind the money if the contracts have gone forward. There will be another gate on the full project and that would have to go to the voters.

Q: Is there nothing in the Driscoll contracts that provide some sort of out or reconfiguration in case of a significant emergency or change? A: There is no Driscoll construction contract. There is a contract with an architect 50% stage. What numbers will come back in terms of construction?

To stop the process or lower the budget you have to have a warrant article.

Make them less complicated and less expensive. This directive would have to come from the School Committee stating they didn't feel they could spend so much money but at 50% could save some funds. No other option.

School Committee Finance subcommittee met this morning there was a discussion about the budget and they are beginning to come to grips with fact that their operating budget will have to change.

Lee noted when Baldwin override failed, there was money that had been contracted with JLA and that was stopped, so fact that there is a contract doesn't mean it can't be modified.

Q: MSBA is funded by sales tax whose numbers are declining so how reliable is any commitment from MSBA for this project? A: Difficult to say with sales tax. We will know state receipts for meals and occupancy at end of May and can extrapolate from there. It will be sad but the numbers will be there and difficult to be in denial of them. Similar sales tax will be available.

Are we talking about FY21 override for Pierce? A: I thought they were thinking May 2021 which is same time – pre-Covid – talking override from firehouses and Newbury and additional funds for High School so we are still assuming more debt with all of these 4 major capital projects.

MSBA asked the Town if we passed an override for it yet but interested in what we can come up with. We are looking at each other. We are still building schools on a 19th century model when we have seen the future of schools and different educational model. Really need to look at our schools in a different way, need different spaces. A pause would be a smart thing for the Town.

Some of the buildings that are being designed have those larger spaces. We are getting education done but it is not a panacea – people are stepping up but it is draining everyone. Being online all the time...need to be careful about what we want to do so let's not take this as an opportunity to undermine those decisions.

A **MOTION** to adjourn was made, seconded and voted unanimously and the meeting was adjourned at 9:10 pm.

Documents Presented:

- Sustainability Subcommittee Report on Warrant Articles 18 and 19
- Memo from Mary Ellen Normen, Deputy Superintendent for Administration & Finance RE: Unpaid Bill WA-5 Annual Town Meeting 2020: Simmons College - \$51,250
- WA 25 Background Information prepared by Public Safety Subcommittee

	Attendance	Vote 1	Vote 2	Vote 3	Vote 4
# Votes Yes	29	28	27	27	27
# Votes No		0	1	1	0
# Votes Abstain		0	0	0	1
Vote Description:		Table Vote on WA 5	WA 25	WA 18	WA 19
	<i>Enter P for Present</i>	<i>Enter Y, N or A</i>	<i>Enter Y, N or A</i>	<i>Enter Y, N or A</i>	<i>Enter Y, N or A</i>
Carla Benka	P	Y	Y	Y	Y
Ben Birnbaum	P	Y	Y	Y	Y
Harry Bohrs	P	Y	Y	Y	Y
Cliff Brown	P	Y	Y	Y	Y
Carol Caro	P	Y	Y	Y	Y
John Doggett	P	Y	Y	Y	Y
Dennis Doughty	P	Y	Y	Y	Y
Harry Friedman	P	Y	N	Y	Y
Janet Gelbart	P	Y	Y	Y	Y
David-Marc Goldstein	P	Y	Y	Y	Y
Neil Gordon	P	Y	Y	Y	Y
Susan Granoff	P	Y	Y	Y	Y
Amy Hummel	P	Y	Y	Y	Y
Alisa Jonas	P	Y	Y	Y	Y
Janice Kahn	P	Y	Y	Y	Y
Steve Kanes	P	Y	Y	Y	Y
David Lescohier	P	Y	Y	Y	Y
Carol Levin	P	Y	Y	Y	Y
Fred Levitan	P	Y	Y	Y	Y
Pam Lodish	P	Y	Y	Y	Y
Carlos Ridruejo	P	Y	Y	Y	Y
Lee Selwyn	P	Y	Y	N	A
Kim Smith	P	Y	Y	Y	Y
Claire Stampfer	P	Y	Y	Y	Y
Charles Swartz	P	Y	Y	Y	Y
Paul Warren	P	Y	Y	Y	Y
Christine Westphal	P	Y	Y	Y	Y
Neil Wishinsky	P	Y	Y	Y	Y
Mike Sandman	P				



THE PUBLIC SCHOOLS OF BROOKLINE
BROOKLINE, MASSACHUSETTS 02445

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BENJAMIN R. LUMMIS
INTERIM SUPERINTENDENT OF SCHOOLS

MARY ELLEN NORMEN
DEPUTY SUPERINTENDENT
FOR ADMINISTRATION & FINANCE

To: School Committee Finance Sub Committee
School Committee
Ben Lummis, Interim Superintendent

From: Mary Ellen Normen, Deputy Superintendent for Administration & Finance

CC: Melissa Goff, Deputy Town Administrator
Jean Franconi, Town Finance Director
Michael DiPietro, Town Comptroller

Date: April 21, 2020

RE: UnPaid Bill WA-5, Annual Town Meeting 2020: Simmons College - \$51,250

The Public Schools of Brookline has up to four (4) interns from Simmons College annually. The interns are paid directly by Simmons College and the district pays Simmons based on received invoices. This situation highlights one of the internal control issues being resolved within the school department whereby purchase orders being generated post invoice rather than at the time of contract authorization for the full value of the contract. Signed contracts with Simmons College and the corresponding purchase orders were not generated in order to safeguard and secure funds for payment in each of the fiscal years of FY 17 and FY 18. The employees who were receiving the invoices moved from their roles beginning in FY 17 for which proper transfer of institutional procedures did not occur. In addition, Simmons College did not follow up on past due balances until fall of 2019. They also could not produce properly executed contract agreements with the district by an authorized administrator.

	Intern	Simmons Program	School	Total Stipend	Unpaid Balance	Notes
2016-2017	HD	Master of Arts in Teaching	Lawrence School	\$10,000	\$10,000	
	CM	Master of Arts in Teaching	Lincoln School	\$10,000	\$10,000	
	HO	Master of Arts in Teaching	Runkle School	\$10,000	\$10,000	
2017-2018	SF	Master of Arts in Teaching	Lawrence School	\$10,000	\$10,000	
	JS	Master of Arts in Teaching	Lincoln School	\$10,000	\$10,000	
	SV	Master of Arts in Teaching	Driscoll School	\$1,250	\$1,250	Worked 9/7/17 - 10/3/17 (pro-rated for 100 hours spent in district)
					\$51,250	

Attachment: Simmons College Outstanding Invoice

Simmons UNIVERSITY

INVOICE

February 4, 2020

Simmons Tax ID: 04-2103629

Bill To:

Remit To:

Brookline Public Schools
Attn: Donna Chisholm
333 Washington Street
Brookline MA 02445

Simmons University
Attn: Comptroller's Office, Cashier
300 The Fenway
Boston MA 02115-5898

Description: Paid Intern Billing 2017 - 2018

Samantha Fudge	Master of Arts in Teaching	Lawrence School	Brookline Public Schools	\$10,000.00
Janyne Sierra	Master of Arts in Teaching	Lincoln School	Brookline Public Schools	\$10,000.00
Samantha Van Leer (9/7/17-10/3/17)	Master of Arts in Teaching	Driscoll School	Brookline Public Schools	\$1,250.00 (pro-rated for 100 hours spent in district)

Total Due:

\$21,250.00

Method of Payment:

Check: Make check payable to Simmons University/ Return payment to the Cashier in the Comptroller's Office in Room W207

ACH: # 011-000-138

Wire (USA): ABA Routing # 026-009-593

Wire (International): Swift # BOFAUS3N

Credit to Account of: Simmons University

Account Number: 4605294123

Simmons UNIVERSITY

INVOICE

February 4, 2020

Simmons Tax ID: 04-2103629

Bill To:

Brookline Public Schools
Attn: Donna Chisholm
333 Washington Street
Brookline MA 02445

Remit To:

Simmons University
Attn: Comptroller's Office, Cashier
300 The Fenway
Boston MA 02115-5898

Description: Paid Intern Billing 2016 - 2017

Hannah Driscoll	Master of Arts in Teaching	Lawrence School	Brookline Public Schools	\$10,000.00
Catherine McDonough	Master of Arts in Teaching	Lincoln School	Brookline Public Schools	\$10,000.00
Hannah Oliphant	Master of Arts in Teaching	Runkle School	Brookline Public Schools	\$10,000.00

Total Due:

\$30,000.00

Method of Payment:

Check: Make check payable to Simmons University/ Return payment to the Cashier in the Comptroller's

Office in Room W207

ACH: # 011-000-138

Wire (USA): ABA Routing # 026-009-593

Wire (International): Swift # BOFAUS3N

Credit to Account of: Simmons University

Account Number: 4605294123

Public Safety Subcommittee
Advisory Committee

WARRANT ARTICLE 25: Background in preparation for the public hearing/discussion and possible vote on Thursday, April 23rd

SUMMARY: WA25 was submitted by Sam Glasgow on behalf of himself and other members of the Small Business Development Committee [<https://brooklinema.gov/1604/Small-Business-Development-Committee>]

BACKGROUND: In November 2017 Town Meeting authorized the Select Board to petition for 35 additional all kinds liquor licenses above the Town's cap, as well as 5 beer/wine licenses. The House Committee on Consumer Protection and Professional Licensure, Chaired by Tackey Chan, approved 12 all kinds liquor licenses which were stipulated to be used in four "Target Commercial Areas" distributed as follows: 5 in Coolidge Corner; 3 in Brookline Village; 3 in Washington Square; and 1 in JFK Crossing. It further stipulated that the licenses, if not conveyed, would expire on October 11, 2020, two years after the effective date of the authorization. That is the version that was approved by the Legislature.

To-date, there are still two outstanding special liquor licenses for Washington Square, and no restaurants have yet begun the process for obtaining one of these licenses. If these licenses remain unused by October 11, 2020, the Town will lose them. The Small Business Development Committee is proposing that the Town petition the Legislature for approval to: (1) allow the remaining licenses to be redistributed to Coolidge Corner and/or Brookline Village, and; (2) that the deadline for issuing those licenses be extended by two years.

There are five possible options under consideration for how these licenses would be redistributed:

1. One license to Coolidge Corner; One license to Brookline Village
2. Two licenses to Coolidge Corner
3. Two licenses to Brookline Village

Assuming that one of the two Washington Square licenses was obtained by a restaurant in that commercial area –

1. One license to Coolidge Corner
2. One license to Brookline Village

NOTE: Only one of these options will be included in the Combined Report for Town Meeting and only one option can be submitted to the Legislature to amend the Chapter 268 of the Acts of 2018 which granted the 12 licenses to the Town of Brookline.

State Representative Tommy Vitolo has been in contact with Tackey Chan who appears amenable to both the redistribution and the two year extension.

Brookline Advisory Committee
Sustainability Sub-Committee

Report on Article 18: “Authorization to Accept Massachusetts General Laws, Chapter 44, Section 55C – Affordable Housing Trust Fund” and Article 19: “Amend Article 3.13 of the Town’s By-laws”

The Sustainability Subcommittee of the Advisory Committee held a public hearing on April 16, 2020 using the Zoom virtual meeting technology to discuss and possibly vote on Warrant Articles 18 & 19, submitted by the Planning Department. Attending were committee members Carlos Ridreujo, TMM P 14, chair, Pam Lodish, TMM P 14, Amy Hummel, TMM P 12, and David Lescohier, TMM P 11. Members of Town Staff were Virginia Bullock, Planning Department, Alison Steinfeld, Planning Department, and Joslin Murphy, Town Counsel. Others were Roger Blood, Chair of the Housing Advisory Board, Werner Lohe, TMM P 13 and Deborah Brown, TMM P 1.

Summary

Article 18 seeks Town Meeting authorization to accept Massachusetts’ Affordable Housing Trust Fund law (M.G.L., c. 44, s. 55C). This action would establish the Town’s Affordable Housing Trust Fund under the provisions of this statute.

Article 19 seeks to amend Article 3.13, the Housing Advisory Board by-law, to resolve differences between Brookline’s current by-law and M.G.L. c. 44, s. 55C.

Recommendation

By a vote 4-0-0 the Sustainability Subcommittee voted to recommend favorable action on article 18, with no changes as follows:

VOTED: To accept the provisions of Massachusetts General Laws Chapter 44, Section 55C, and establish a trust known as the Brookline Affordable Housing Trust Fund, the purpose of which shall be to provide for the creation and preservation of affordable housing in the Town of Brookline for the benefit of low and moderate income households and for the funding of community housing.

By a vote 4-0-0 the Sustainability Subcommittee voted to recommend favorable action on article 19, with changes as follows: (deletions, strikethrough; additions, bold)

VOTED:

SECTION 3.13.1 PURPOSE

There is hereby created in the Town of Brookline a Housing Advisory Board, hereinafter called the Board, to report to and advise the Select Board, for the following purposes:

- a. to study and recommend housing policy for the town,
- b. to advise on the coordination of housing policy and programs within the town,
- c. to act as Trustees for funds received as gifts, grants, aid, reimbursements and payments for housing, including renewal, replacement and new construction,
- d. to propose plans and programs for relieving congestion; substandard, decadent or blighted areas; unsanitary or unsafe buildings; and for providing safe and sanitary dwellings for families and elderly persons of low or moderate income at rentals which they can afford;
- e. to promote the preservation and creation of housing which is affordable to low, moderate and upper-moderate income persons, households and families, and
- f. to administer the **Brookline Affordable Housing Trust Fund**, ~~hereinafter established~~.

SECTION 3.13.2 MEMBERSHIP

The Housing Advisory Board shall consist of ~~seven~~ **eight trustees who shall be** residents of the town, five appointed by the Select Board for ~~three~~ **two-**year staggered terms, and a member each of the **Select Board**, Planning Board and Brookline Housing Authority. Vacancies shall be filled for unexpired terms. Of the Select Board's appointees, one should be a low- or moderate-income tenant who demonstrates a knowledge of tenant issues. The other Select Board's appointees should have knowledge or experience in one or more of the following areas: government housing programs, housing or real estate finances, affordable housing development, design or urban planning, real estate law. The Select Board should ensure that all of these areas of expertise are represented on the Housing Advisory Board.

SECTION 3.13.3 HOUSING TRUST

~~There is hereby created in the Town of Brookline a Housing Trust, whose~~ **The funds of the Town of Brookline Affordable Housing Trust Fund, established pursuant to M.G.L. c. 44, s. 55C,** are to be managed and expended under the supervision of the Housing Advisory Board. **The purpose of the Trust is to provide for the creation and preservation of affordable housing in the Town of Brookline for the benefit of low-and moderate-income households and for the funding of community housing, as defined in and in accordance with the provisions of M.G.L. c. 44B.** The Housing Trust may accept gifts, grants, aid, reimbursements, payments and appropriations for the purposes set forth in **this Section 3.13.3,** and the Housing Advisory Board may expend the funds in the Housing Trust, with the approval of the Select Board, for such purposes. Without limiting the foregoing, and with the approval of the Select Board, the Board may employ consultants, full or part-time staff and contract for administrative and support services. All funds received for the Housing Trust shall be deposited with the Treasurer and held in a separate account known as the Housing Trust account. The Brookline Housing Trust fund shall be the sole designee and recipient of any and all developer cash contributions made to the Town for affordable housing purposes under Section ~~4.40-08,~~

Affordable Housing Requirements, of the Zoning By-law. No expenditures shall be made from the Housing Trust Fund without the prior approval of the Select Board.

SECTION 3.13.4 DUTIES

In addition to the duties given to the Board in Section 3.13.1., it shall also review and make recommendations to the Planning Board for projects under any so-called ~~inclusionary~~^{incentive} zoning provisions. The Board shall, in appropriate cases, act as the negotiating agency with developers and owners regarding the financial aspects of the development or conversion of property. The Board may hold both real and personal property and, without limiting the foregoing, may hold interests in real and personal property, including mortgages, land leases, easements, restrictions and options. The Board shall have authority to apply for, receive and expend grants, aid, reimbursements, gifts and other funding for housing and conversion projects, including, without limiting the foregoing, preservation of existing housing, expansion of low, moderate and upper-moderate income housing, and conversion of existing housing or non-housing structures to low, moderate and upper-moderate income housing. The Board shall report each year to the Select Board and the Annual Town Meeting on progress achieved in meeting any Town-wide goals and priorities for housing in Brookline adopted by the Select Board and the Housing Advisory Board.

SECTION 3.13.5 POWERS

The Board may use the Housing Trust, or any additional funds that may be available to provide rent subsidies, mortgage interest payments, mortgage principal payments, condominium principal or interest payments, development subsidies and conversion subsidies. The Board may also use such funding for housing studies and reports, for the employment of experts and for such purposes it deems necessary or desirable to accomplish the purposes set forth in Section 3.13.1.

Background

In the 1980s, Brookline, along with a few other communities filed home rule petitions seeking to establish trust funds devoted to the promotion and support of affordable housing. Brookline's home rule petition was filed in 1986. In 1987, Town Meeting enacted a housing trust fund by-law which is now known as "Article 3.13, Housing Advisory Board", of the Brookline General By-laws. The Attorney General approved this by-law. Although it appears that the Town's petition was never passed, in 2005 the "Municipal Affordable Housing Trust Fund" law, M.G.L., chapter 44, section 55C was enacted. This statute has greatly simplified the process of establishing housing trust funds.

Brookline's Housing Advisory Board by-law is similar to the terms of the state statute and has functioned well. Thus, there has been no compelling need to accept the Commonwealth's Municipal Housing Trust Fund law.

However, because there are two important initiatives that could entail significant new contributions to the Affordable Housing Trust Fund on the warrant for the 2020 Annual Town Meeting, Town Counsel has recommended, largely as a matter of housekeeping, that the Brookline's Affordable Housing Trust Fund be established under the provisions of M.G.L. c. 44, s. 55C.

The first initiative is the Newbury land acquisition and zoning transaction, Articles 9 – 15.

The second is the Community Preservation Act authorization, Article 24.

In order to bring Article 3.13 into compliance with M.G.L. c. 44, s. 55C, the Planning Department's Article 19 changes the membership of the Housing Advisory Board from 7 to 8 members, requires a Select Board member, reduces the term of office from three years to two, and inserts the specific operative language from M.G.L., Chapter 44, Section 55C in section 13.13.3 of the by-law.

The Massachusetts Housing Trust statute enumerates 16 possible duties, but says that municipalities through by-law or ordinance may add to or delete these duties. Brookline's by-law lists "preservation of existing housing, expansion of low (80% AMI), moderate (100% AMI) and upper-moderate income housing (120% AMI), and conversion of existing housing or non-housing structures to low, moderate and upper-moderate income housing". This income range exceeds that which is enumerated in the state statute because it includes "upper-moderate income housing", otherwise known as "workforce" housing. While Brookline's inclusion of an upper-moderate income category will continue to be allowable for purposes other than Trust Fund expenditures, the statute does not allow any Trust Fund spending for upper-moderate housing. The Section 13.13.3 amended language eliminates use of Trust Fund funds for upper-moderate income housing, but under 3.13.4 would still allow the Board to promote upper-moderate affordable housing in other ways. There have been very few, projects in the past containing upper-moderate income affordable units funded with Affordable Housing Trust Funds. The HAB Chair does not view this restriction as imposing a significant impediment to carrying out the HAB's mission.

Over the years, the Brookline Affordable Housing Trust Fund has managed approximately \$14 million, expended \$11 million, and supported the development of over 350 units of affordable housing, which represents a substantial contribution to Brookline's affordable housing inventory. As of 2018, Brookline Housing Authority operated 920 units, and there were 891 privately owned units. According to the 2016 Brookline Housing Production Plan, 104 of Brookline's affordable units were produced under the inclusionary zoning by-law.

However, despite Brookline's efforts to promote affordable housing, the Town remains unaffordable for many lower- and moderate-income residents.

Seven-thousand of Brookline's 24,500 households (29%) have low or moderate income.

Over 5,000 Brookline households (27%) spend more than 30% of their income on housing.

Only three percent of vacant rental units in Brookline are affordable.

A median income household of four (\$113,000) can afford a rent of \$2,700, but the average three-bedroom rent is \$3,500.

Forty-seven percent of renters are living in housing they cannot afford.

Of the 5,900 households age 65 and above, 1,900 households are renting. Fifty-two percent of these households are spending more than 30% of their income on housing.

There are 1,500 seniors and 1,300 families on the Brookline Housing Authority waiting list

Discussion

Does HAB support these Articles?

The Chair of the HAB has been consulted and has expressed support for these articles. HAB is planning to schedule a public hearing so that the Board may vote on formal WA 18 & 19 recommendations.

What would be the consequence of no action on these articles?

The existing Trust Fund has been maintained as a separate fund since its inception. While the Town could continue to receive funds dedicated to affordable housing under the so-called “gifts and grants” law, Town Counsel recommends that Town Meeting act favorably so the fund is permanently established under the provisions of M.G.L. c. 44, s. 55C.

In addition, M.G.L., c. 44B, s. 5(f) states that “a city or town may appropriate money in any year from the Community Preservation Fund to an affordable trust fund”. (This section of M.G.L. c. 44B does not specifically reference M.G.L. c. 44, s. 55C.)

Is there concern if the Trust Fund will henceforth be restricted to funding moderate and low-income projects?

There will be very little change, in reality. Twenty-two percent of projects are 50% AMI and below, 14% are 60%, 59% are 80%. Only 4% are 110% and 120% AMI.

For more information:

<https://www.brooklinema.gov/DocumentCenter/View/19238/Affordable-Rentals-in-Brookline---Updated-May-2019?bidId=>

Will the Select Board Member be a voting member?

The Select Board member will be a voting trustee. The Brookline by-law requirement that projects are submitted for Select Board for approval will remain, even though M.G.L., c. 44, s. 55C does not require this.

If the Affordable Housing Trust Fund will no longer provide funds for upper-moderate income projects, what will be the AHTF role for such projects?

The Housing Advisory Board will be able to participate with other funders such as Mass Housing, for example, which does have a program to produce 120% AMI projects. These

projects could play an important and growing role in Brookline’s affordable housing advocacy, as there is concern that Brookline should be seeking to encourage workforce housing. Also, developer payments for inclusionary zoning may include funds for upper moderate and workforce housing support.

What is the overall vision and priority of HAB, and what should the priority be for affordable housing in Brookline?

The role of HAB is to analyze affordable housing projects when they are put forward by developers. The developers work under the constraints of various funding sources in order to arrive at a workable pro-forma. The Affordable Housing Trust Fund is only one piece of this puzzle. It is a complicated process. The aim is to foster diverse opportunities for affordable housing to meet the needs of a variety of income levels, including both family and senior housing.

Sign in Sheet

Find a participant

-  David Lescohier (Me)
-  Carlos Ridruejo (Host)
-  Joslin Murphy
-  pamelalodish
-  Alison Steinfeld ✓
-  Amy ✓
-  Deborah Brown ✓
-  Roger Blood ✓
-  Virginia Bullock ✓
-  Werner Lohe ✓