

**Town of Brookline
Advisory Committee Minutes
Tuesday, October 17, 2023**

Present in Person or on Zoom: Michael Berger, Paul Bernard, Ben Birnbaum, Harry Bohrs, Clifford Brown, John Doggett, Dennis Doughty, Katherine Florio, Harry Friedman, David-Marc Goldstein, Neil Gordon, Susan Granoff, Perry Grossman, Kelly Hardebeck, Alisa Jonas, Carol Levin, Joslin Murphy, Donelle O’Neal, Linda Olson Pehlke, Markus L. Penzel, David Pollak, Stephen Reeders, Lee Selwyn, Alok Somani, Carolyn R. Thall, Christine Westphal

Absent: Carlos Ridruejo, Amy Hummel, Pam Lodish

Also Attending: Deputy Town Administrator Melissa Goff, Chief Assessor Rachid Belhocine, Assistant Town Counsel Jonathan Simpson, Petitioner for Article 16 Alec Lebovitz, Yolanda Rodriguez, Fred Levitan, Rhoda Goodwin, Diana McClure, Richard Nangle, Roger Blood, and other members of the public.

The meeting was called to order at 7:00 PM.

Announcements: Pursuant to this Board’s Authority under 940 CMR 29.10 (8), all of the committee members will be participating remotely via telephone or video conferencing due to emergency regulations regarding the Corona virus. The Chairman 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.

PUBLIC HEARING

7:00 pm Public Comment

7:15 pm Discussion, deliberation, and possible vote on Warrant Article 10 Transfer of unexpended bond proceeds and rescissions (Select Board)

Melissa Goff gave an overview of this request to redirect some Devotion School funds to Pierce School (see Memo linked at the end of these minutes).

Carol Levin, Chair of the Capital Subcommittee did not have a hearing. Why do we have this money in the Ridley account? Because Ridley was the first school we did under a revised MSBA program where the MSBA pays for the improvements. They reimbursed us and there was a surplus of \$9.5 Million. When we borrowed the money, interest rates were lower than they would be if borrowing now. Mainly just an accounting maneuver. What happens if Pierce doesn’t go forward? The Building Commission did not grant the right to demolish Pierce before we knew what the costs are. They instructed the Town to prepare an early bid package and later in the process they will determine whether to demolish before we know the total cost. If that happened the Town would have the opportunity to once again reapply the bonds to another project.

Melissa clarified: We have been spending money since the new authorization as of July 1 and would need some to pay this down and then could apply to other projects. Need to apply to a project that had the same term. Already started paying some off.

QUESTIONS COMMENTS DISCUSSION

Q: How these two amounts relate to the project budget allocation? Are these savings? A: We came in under.

Q: Is Ridely done? Have all expenses completed? A: Yes, this project is complete. Let the account sit for a number of years to make sure we were done and that is why we are ready to have this article in front of you.

A **MOTION** was made and seconded for favorable action on WA 10 as outlined below. By a **VOTE** of 22 in favor, none opposed and no abstentions, the Advisory Committee recommends Favorable Action on WA 10.

VOTED: That the sum of \$3,928,938.35 is hereby transferred from amounts previously authorized to be borrowed under the following warrant article and for the purpose set forth below:

Amount to be Transferred	Town Meeting Article	Date Authorized	Purpose
\$3,928,938.35	Article 8, Item 73	05/05/2015	Ridley (formerly Devotion) School

which amount is no longer needed to complete the project for which it was initially borrowed, to pay costs of the Pierce School Renovation/Addition Project and that the following authorized, but unissued borrowing balances are hereby rescinded:

Amount to be Rescinded	Town Meeting Article	Date Authorized	Purpose
\$265.00	Article 7, Item 73	05/23/2006	Sewers
\$2,667,621.00	Article 8, Item 73	05/05/2015	Ridley (formerly Devotion) School Renovation/Construction

7:30 pm Discussion, deliberation, and possible vote on Warrant Article 2 Collective Bargaining Agreements (Human Resources)

Melissa Goff noted that there are no agreements at this time.

A **MOTION** was made and seconded for No Action. By a VOTE of 22 in favor, none opposed and no abstentions, the Advisory Committee recommends No Action on WA 2.

7:45 pm Discussion, deliberation, and possible vote on STM 2, Warrant Article 1 Budget Amendments (Select Board)

Melissa Goff noted the only thing needed is to appropriate TNC Funds Appropriating annual revenue from the assessment on transportation network companies (TNCs) to fund transportation projects.

The recommendations voted by the Transportation Board are as follows:

- Subsidized Transportation Programs for Older Adults: Support programs to increase access to transportation services for Brookline seniors in support of the Town’s goal of Aging in Place and our designation as a World Health Organization Age Friendly Community and supplement funding to pay for the salaries of TRIPPS staff who manage the administrative aspects for the subsidized transportation programs, support Brookline seniors, and coordinate with local and national counterparts to provide the highest quality service possible. TOTAL FUNDING \$100,000
- Brookline Friendly Community Public Bench Project: purchase and install up to 10 more benches through the Brookline Friendly Community Public Bench Project. TOTAL FUNDING \$26,823

QUESTIONS COMMENTS DISCUSSION

There was a question about bench costs, price per bench. Melissa will get more information on this from the Transportation Commission.

Q: In theory could these funds be used for snow removal? A: Might be a stretch. These funds are to be used to mitigate effects of Uber and Lyft.

Q: Could we use these funds for any capital type of projects other than the benches? A: There have been CIP related items funded with these funds – transportation related – painted lines, stanchions, etc.

This pays the salaries of Trip Staff who manage the program. The Senior Center has been advocating for TNC funds for some 3-5 years.

A **MOTION** was made and seconded for Favorable Action on the Transportation items listed above. By a VOTE of 22 in favor, none opposed and 1 abstention it is **VOTED**: That the Town appropriate \$126,823 to be expended under the direction of the Commissioner of Public Works to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure and to meet the appropriation transfer \$126,823 from the Transportation Network Company (TNC) special revenue account.

PUBLIC MEETING

8:00 pm Report by the Capital Subcommittee, discussion, deliberation, and possible vote on Warrant Article 16 Home Rule Petition to implement Rent Stabilization and tenant eviction protections (Lebovitz et. al)

Alok Somani presented the report on behalf of the Subcommittee which is linked with other supporting documents below. He offered a brief overview of the history of rent control in Brookline and outlined the petitioners' reasons for bringing this article at this time. The petitioners believe that many renters in Brookline are housing burdened and subjected to increasing housing instability due to rapidly rising rents and evictions. The intended policy goal is to offer tenants rent stability and protection from displacement by regulating annual rent increases and implementing eviction protections.

The proposed by-law would apply to about 11,000 eligible units. Some exceptions to rent stabilization similar to those in Boston. Rent stabilization would not apply to single family homes and multifamily buildings of four or fewer units provided the owner occupied one of the units. Other exempted units include public housing, hotels, motels, nonprofit hospitals; religious, extended care and residential care for the elderly facilities; dorms, shared dwelling units; new construction that is less than 15 years old. The petitioners stated senior citizen housing developed by both non-profit and for-profit developers would be subject to this proposed bylaw.

He further explained the mechanism that would be used improve housing stability in Brookline as proposed is to cap annual rent increases to regional CPI + 3%, not to exceed 7%. An enforcement body would be created to consider on a case-by-case basis, landlord applications to recover maintenance, capital costs and property tax increases. Landlords would be able to reset the rent to a market rate for new tenant leases, and units would automatically "decontrol" at the end of a lease.

He added that the petitioner's stated goal for tenant eviction protection is to eliminate "no cause" evictions and create provisions, such as relocation plans and relocation allowances to be paid to tenants, to help protect tenants in the case

of displacement due to condo conversions, substantial renovations or demolition. Each eviction would have to be approved by the board that would be created to regulate and enforce the by-law. All rental units, not just those eligible for rent stabilization, would be eligible for tenant eviction protection. The petitioners believe a Home Rule Petition is not necessary for the eviction protection portions of the Warrant Article.

He offered some highlights of the subcommittee's discussion including reviewing academic research. Costs to implement this were researched, reviewed and discovered to be quite high and no guarantee that overtime the solution offered by the petitioners won't become cost prohibitive. Chart from 1993 Town Budget was reviewed showing percentage of tax revenue from different classes – average tax bill down for condos and apartments by 2% and 3% respectively. It illustrated as Chief Assessor Rachid Belhocine explained that the proposed by-law is not likely to reduce overall tax revenue; but is likely to result in a shift of the tax burden from rent stabilized units to other classes of residential property that are not rent stabilized, such as single-family homes.

The Capital Subcommittee of the Advisory Committee voted 4-1-0 to recommend NO ACTION on Warrant Article 16.

Petitioner Lebovitz thanked Alok for a thorough summary and addressed a few points made in the report. He noted that historical figures related to implementation costs the program being administered in the past is very different than what is being proposed now. The Petitioner's presentation shared at the subcommittee hearing is linked at the end of these minutes.

Chief Assessor Rachid Belhocine gave a brief idea of how tax would shift from one class to another – Residential to Commercial and Select Board votes to amount of taxes to be borne by each class. Residential works the same way. Taxes will shift from rent controlled to non-controlled units.

QUESTIONS COMMENTS DISCUSSION

Comment: Many academic papers where rent control is addressed, especially in San Francisco and Cambridge. Consider history of only Brookline is to miss many points. Covert effects – landlords stop maintaining their buildings, distorts the market, etc.

Comment: Underscore the point that study done by Harold Peterson showed there would be hardly any impact on average if this proposal was in effect during the past few years. Also found in a study done in the 1940s. When assessors look at the valuation what it should be telling them there won't be any need to devalue these properties because even with proposed rent control provisions, they can still charge increases of the lesser of CPI + 3%, or 7%, as well as for maintenance and capital improvements, thus no decrease in the value of these properties and thus no tax shift as a result. Studies done on more extreme versions of rent control.

Comment: I have lived under rent control for the first 27 years of my life in NYC and Brookline and have positive experiences. Never saw any problems with maintenance. Growing up in a working-class family, there were benefits – psychological security of not losing a home, and also economic security. Also helps maintain stability of neighborhoods. This is worth serious consideration. This is one possible approach of keeping Brookline affordable.

Q: Have you checked with our statehouse delegation and what was the result? A: Rep Vitolo shared some background on policy specific home rule petitions. The Petitioner believes there is a viable way forward and we can take the lead on this.

A question was raised about eviction policies and the Petitioner explained that currently there is a no-cause eviction is legal in Massachusetts. The article is proposing reasonable eviction protections. Good-cause protections to make sure tenants that comply with the law are allowed to renew that lease before eviction can proceed or renewal is denied without cause.

Q: Landlords recouping costs – would this require additional staffing? A: Yes, some administrative capacity to review and approve those requests, but don't think they would be prohibitive given changes in technologies, etc.

Q: Potentially 11,000 requests for the units? A: Much enforcement will be complaint-based – cap violated or cap exemption, etc. Won't be an insignificant number of cases but doubt it will rise to this.

Q: Why couldn't this have been done with a resolution especially given there is legislation pending and a ballot measure in the works also? Why another home rule petitioner. A: We see a viable political path for this effort. A resolution would not be effective in similar circumstances or register with people on Beacon Hill. This is a ready for prime-time program and able to be implemented tomorrow. Brookline should make our desire for these programs to be known.

Q: Why are we faced with this incredibly detailed bylaw and is that the home rule petition? If we adopt it are we changing our bylaw? Will it be this detailed thing we are sending to the Hill? Pre-empting Brookline creating its own program and relinquishing all provisions to the legislature. A: You can do home rule petitions to be vague or very specific (as in writing the bylaw). Very specific but calls for other bylaws to be written. State law if approved by the legislature. If we want to change it we would have to file another home rule petition. Whatever is passed will be binding on the Town.

Comment: Regarding condos – eviction prohibition comes into play when a building wants to do a condo conversion. In my building, no more than 15 of 50 units can be rented. 15 units become subject to this rent control would degrade the value of the building. Counter productive to wealth building. Condos provide homeownership opportunity to those who may not be able to afford single family or other.

Rachid noted that 45% of 11,000 units are potentially rental, not owner occupied.

Q: What if I want to not renew the lease because I want to sell my unit? A: A provision to allow owners to take back possession possibly for owner occupancy but there are rules. Alok read the provision in the bylaw Section 3, letter h. Subject to the local policy making process, regulatory bylaw process once this is passed by the legislature.

Q: The annual cap on increases – is that a use it or lose it opportunity and potential for perverse incentive to landlords? A: Banking is not allowed. Don't do it this year, can do it next year but not on a higher base.

Comment: Regarding condo values, larger apartment houses are based on income/rents – not the case of individual condo units that are rented. The way you know a unit is rented because it isn't owner occupied because there is no residential exemption. Tax shift from rental unit selling for less, tax shift will go to your unit – away from condos.

Comment: Regarding n- cause eviction. The marginal tenant, not so bad you want to evict them but see your attorney anyway – make noise, smoke, etc. – how much time do you have left on the lease do you really want to start this? If you get evicted there is a serious credit issue and unlikely to be able to rent again.

Comment: Conflict here. Had this particular program been in place based on the formula it wouldn't have impacted rents as it tracks to what the rental market has done, in which case no tax shift, no decline in value and no benefit to tenants. What are we trying to solve?

Comment: Not the first petitioners to come before the Advisory Committee who consulted the delegation but chose to ignore the advice. If you want something from the legislature, ask for what you want. The Petitioner had a conversation after being shamed into having a conversation with Rep Vitolo. To shepherd legislation simply by attending hearings is **not enough**. **With a proposed ballot question pending and 2 bills pending in the legislature it is naïve to believe that this will see the light of day.** Not inclined to support home rule petitions that are not discussed with the State rep.

Comment: Thank you to the subcommittee for such a detailed report and all the background.

Q: Did the subcommittee determine the average time a tenant is in a unit and then average increases in rents? A: No we did not talk about length so tenancy. We did reach out to landlords and had one testify at the hearing. Did not address rent increases.

Comment: Appreciate comments about affordability and benefits of rent control, but troubled that the formula would stabilize rents. As soon as this passed and became law that our rents would increase, landlords hedging their bets against other increases. Unintended consequence.

Comment: By my count we have about four home rule petitions going into Town Meeting, is that correct?

Q: Studies go back to the 70s. Definition of affordable housing consistent across the years, regions, etc.? A: No.

Formal definition of affordable housing is housing below market cost, sometimes involving a subsidy and applicants qualify for that housing.

Q: Comparison of turnover of units with and without rent control in Brookline? A: Not that I'm aware of?

Q: Number of buildings that are 100 % rental units? A: Strictly rentals 220 buildings.

Comment: Rep Vitolo will not take a public position on any home rule petition still being considered.

A question was raised again about valuing properties. Assessor Belhocine note that we value rental properties based on operating income, residential is market value. If this passes and condos are divided into two categories, sales of rent controlled condos would still be using sales to value those properties. Keep valuing condos as long as we have sales.

Comment: This will affect the value of condos – what I want to pay for it if I know I can't rent it, and if I own it, I can't evict the tenant.

Comment: In awe of the work of the subcommittee. And the knowledge the Advisory Committee has of this particular issue. Cited an article by Paul Krugman from 2000. This is not a recreation of what we have already experienced.

Comment: Appreciate those who noted the psychological value of rent controlling. Seems like a modest proposal and I will support it.

Q: If the average increases haven't exceeded the cap is this really necessary? A: We view this as a safety net provision and we would be capping worst excesses of single year rent increases which can be extreme in a single year. Rents can go up in any amount at any time for any reason. The cap would help alleviate or mitigate this. Just because the average increase is below the cap does not render this unnecessary.

Comment: When the State voted whether or not to vote on rent control after twenty years or so, despite all the animosity, it was still very popular in Brookline.

Comment: Thanks to Alok for pulling the information together and to the Petitioner who was responsive to the subcommittee's questions. Point out a need for consistency in how we deal with implications of the cost of things. Problematic that we would start talking about rentals and subset of tenants when we haven't come up with a more holistic basis for what sort of consideration we are going to be giving for anything related to affordability.

The Petitioner closed with a few comments. Emphasized that this is very different from what has been put before Brookline in the past, measured proposal and attention to detail to avoid pitfalls found in other communities. See this as a safety net, creating stability, and trying to protect vulnerable communities.

A **MOTION** was made and seconded for Favorable Action on WA 16 but recommends the Committee vote no. By a **VOTE** of 3 in favor, 15 opposed and 4 abstentions, the Advisory Committee recommends No Action on WA 16.

Upon a **MOTION** made and seconded to adjourn, and voted unanimously, the meeting was adjourned at 9:20 p.m.

Meeting recording link: https://brooklinema.zoomgov.com/rec/share/7o4jB_UL52FF6xhbDbxWs6J6jtGrF0F58hkSNP-nxrgRjY2-doWfEGcWptSFqDpQ.YKXI5e21mLclN0XI

Documents Presented <https://www.brooklinema.gov/DocumentCenter/Index/4665>

- Article 10 addition information
- FY24 Budget Amendment memo
- 2023 10 2 and 11 Capital Subcommittee Report WA 16 Final
- 20231010 Petitioner Presentation Fall 2023 WA16
- 20231011 Rent Data (Prof Petersen)
- Tax Levy 1981-92
- Chart from 1993 budget book referenced in the subcommittee report
- RentControl.JoeEckert.1987
- Apt Rent History

VOTES

	Attendance	Vote 1	Vote 2	Vote 3	Vote 4
# Votes Yes	25	22	22	22	3
# Votes No		0	0	0	15
# Votes Abstain		0	0	1	4
Vote Description:		MOTION: FAVORABLE ACTION ON WA10 as per GOFF MEMO	MOTION: NO ACTION ON WA 2	FAVORABLE ACTION ON TNC FUND DISTRIBUTION OF \$126,823 as per GOFF MEMO	MOTION: FAVORABLE ACTION ON WA 16
Michael Berger	P	Y	Y	Y	N
Paul Bernard	P	Y	Y	Y	N
Ben Birnbaum	P	Y	Y	Y	N
Harry Bohrs	P	Y	Y	Y	
Cliff Brown	P	Y	Y	Y	N
John Doggett	P	Y	Y	Y	N
Katherine Florio	P	Y	Y	Y	N
Harry Friedman	P	Y	Y	Y	N
David-Marc Goldstein	P	Y	Y	Y	N
Neil Gordon	P	Y	Y	Y	
Susan Granoff	P	Y	Y	Y	Y
Perry Grossman	P	Y	Y	Y	Y
Kelly Hardebeck	P	Y	Y	Y	N
Alisa Jonas	P	Y	Y	Y	
Carol Levin	P	Y	Y	Y	N
Pam Lodish					
Joslin Murphy	P				A
Donelle O'Neal, Sr.	P	Y	Y	Y	Y
Linda Olson Pehlke	P	Y	Y	Y	N
Markus Penzel	P	Y	Y	Y	A
David Pollak	P	Y	Y	Y	A
Stephen Reeders	P	Y	Y	Y	N
Carlos Ridruejo					
Lee Selwyn	P				N
Alok Somani	P	Y	Y	Y	N
Carolyn Thall	P	Y	Y	Y	N
Christine Westphal	P			A	A
Dennis Doughty					