
Absent: David-Marc Goldstein, Susan Granoff, Carol Levin, Claire Stampfer, Christine Westphal

Also Attending: Petitioner for WA 9 Wendy MacMillan, Petitioner for WA 20 Robert Zucker

The Chair called the meeting to order at 7:30 PM

Agenda:

7:30 pm   Article 5   Authorization for the disposal and sale of the real property at 15-19 Oak Street. (Mariah Nobrega, TMM, Pct. 4, petitioner)

Cliff Brown gave an overview of the joint Schools and Capital subcommittees’ review of this article, the substance of which appears in their report. The article authorizes the Select Board to sell property, purchased in anticipation of successful debt exclusion vote, to accommodate the construction of a new Baldwin School. There was discussion about when would be the optimum time to sell.

Mariah Nobrega, Neil Wishinsky and Ben Franco were the co-petitioners.

1) This is identical to Select Board article that has since been withdrawn
2) This provides the Select Board flexibility if they choose to keep property or to liquidate and go after something else. If not passed, they won’t have the ability to move quickly. It doesn’t mandate a sale just gives authority to sell.

Granted in perpetuity, but should there be a time limit?
No recommendation to sell in the article, but to have a resolution recommending its sale.

Q: What is the current lease agreement? A: They are up at the end of the year.
Recommend a strongly worded statement not only to authorize selling but to stress that the Advisory Committee thinks it fiscally irresponsible to not sell.

Require alternative plan for property should they chose not to sell.
Need flexibility given market fluxuation. Carlos reviewed the property and doesn’t see any other use besides housing. Substantial costs to convert to office space and maintain.
Sending a mixed message to recommend authorization but then put limits and conditions on the sale.
We could issue an Advisory Committee Resolution, which is more formal than just a statement at Town Meeting.

**A MOTION** was made and seconded for Favorable Action on WA 5.
A MOTION was made and seconded to add a sunset clause of 5 years, December 2024.
By a **VOTE** of 2 in favor, 20 opposed and no abstentions, the Amendment fails.
By a **VOTE** of 23 in favor, none opposed and no abstentions, the Advisory Committee recommends Favorable Action on WA 5.

**8:00 pm  Article 20:** To Amend the Town’s Zoning By-law to allow Micro Unit Dwellings in the Coolidge Corner General Business District. (Robert Zuker, petitioner)

Ben Birnbaum gave an overview of the Planning and Regulation subcommittee’s review of WA 20, the substance of which appears in their report.

The Article would amend the Zoning bylaw to allow construction of micro-unit dwellings by special permit within the Coolidge Corner General Business District. Attorney Jennifer Dopazo Gilbert worked with the Planning Department to come up with the article and it has support from the Select Board, Planning Board, and the subcommittee.

The petitioner noted that there are other micro-units in town. They are a great product and building more will promote diversity of choice, lower cost construction. Coolidge Corner is a good location to allow this use.

**Questions and Comments**

The article applies to the entire Coolidge Corner district – Harvard St., Beacon, lower parts of Beacon on both parts of the square. Most sites are close to 1.75 FAR so the possibility of building larger buildings was remote without increasing FAR.

Q: Are these proposed micro-units rentals or for sale? A: Rental.

Concerns raised: 1) project could turn into a dormitory; 2) rather substantial project will be built at Waldo Durgin, more construction and more people living in close proximity to one another changes the physical landscape and whole feel of the area. Suggest wait and see effects of these other projects before moving forward.

The owner can build now, doesn’t change allowed mass, just configures internals differently; this does not have parking requirements. There are already some buildings in Coolidge Corner that are currently serving as dormitories.
Rents compared to a studio – 700-800 square feet, $2,000-2,500.

Can one require a 2 year lease on these to avoid student use?

There is much to recommend as alternative housing. No landscaping requirement. This is very forward thinking in terms of not bringing cars into the area.

I think we will discover at some point that it is unhealthy to live in such a small space. The practical effect could be negative over time.

Q: If this housing becomes an alternative to dormitories, for students is there an effect that they are not in school during summer and will that impact increase use as an Airbnb? A: There is another project near the Marriott, already a hotel, larger consequence.

Q: Are these similar in size to Pine Street’s units at 1754 Beacon? A: Yes.

Webster Street is going though lots of changes – Back door to Sanctuary Marijuana store, building on a parking lot further removing available spots; 30 Webster will have short-term rentals with no management of the building on site, kind of scary.

Q: What is Plan B if this is not approved? A: Build 10-16 units, 2 bedrooms $4,750-$5,500 per month rent. The petitioner noted that he and his family own other units in town and they don’t have undergrad students renting them. $3K, $6K, $7K with parking underground.

$2,500 per month for 12 months is about 50% of all-in cost of tuition, room and board, books, etc. The target market for the units is ecologically sensitive people who want to decrease their carbon footprint and opt for an area with high walkability, social life, and shopping.

We shouldn’t dictate what living situations people want to choose. We can’t do development sequentially, waiting for one project to finish before starting another. Projects will happen at the same times. We want to grow out of our fiscal challenges by increasing our tax base.

Concern was raised about density in terms of sequencing. Public transit is overburdened as it is. Who would get these units? Grad students?

Q: How does 75% compare with Emerald Island? Why not fully micro unit building? A: Need common space.
Micro-units work with common space. Huge demand for young professionals who don’t own lots of stuff and want to be in cities where there are lots of things to do. This is not affordable housing but the market defines what people will pay. Not a dangerous proposition.

Height is 45 feet which meets zoning requirement. No change, it is 4 floors.

Zoning By Law Committee did not vote but very supportive. Planning Board is in favor.

What are the unknown, unintended consequences when it comes to zoning?
15% affordable units required.

Q: What neighborhood input was there on this? A: See comments from Davis and Pehlke that were included in the packets.

A MOTION was made and seconded for Favorable Action on WA 20 as presented in the report. By a VOTE of 18 in favor, 3 opposed, and 2 abstentions, the Advisory Committee recommends Favorable Action on WA 20.

8:30 pm Article 9 Resolution pertaining to the establishment of a real estate transfer fee (Wendy MacMillan, TMM Pct. 4, petitioner)

Neil Gordon provided an overview of the Administration and Finance Subcommittee review of WA9 which is thoroughly covered in the subcommittee report. His report to the Advisory Committee follows:

Warrant Article 9 is a home rule petition, asking the State Legislature to authorize the Select Board to file legislation authorizing the Town to levy a real estate transfer tax. Petitioners would like the Town to levy such a tax and use the revenues to support affordable housing initiatives. It should be noted that NO ONE at the public hearing spoke in opposition to the need for increased funding of affordable housing initiatives, so I won’t spend any time discussing housing security, disparate racial impact, climate change, smart growth, or any of the other reasons that petitioners or members of the public used when speaking in support of this initiative. Petitioners can use their time as they see fit. The ONLY substantive concerns revolved around –

1. Do we only get one bite at the apple? If we increase taxes and apply it to affordable housing, what does that say about other initiatives, including green space and schools? Would this jeopardize future overrides? Don’t the prior failures to pass the CPA influence the thinking here? Don’t we have a study committee already studying this?

2. Is this “fair?” Why were exemptions set at $500,000 rather than some other number? Should there be exemptions at all?

3. Are there unintended consequences? For example, if we actually DO improve the affordable housing situation, would there then be an increased burden on the schools that this money should also be used for? Does this, in effect, create an unfair “downsizing tax” because of having
transaction fees on both ends of a downsizing transaction? Might this encourage property
swapping, long-term leases, or other contortions to avoid taxation?

4. Is this really the right way to craft a home rule petition? Aren’t we boxing ourselves in by being
so prescriptive in this legislation when what we really want is for the State to allow us to present
such a tax to the voters when we all know there are still some details to be worked out?

Let me address the last part first. There was actually a fairly significant back-and-forth with the
moderator on this topic. This petition is intended to start a negotiation between the Select Board and
the State over precisely what language the Town would be able to ask the voters to endorse. The
specific language in the warrant article would be unlikely to come back verbatim from this process, but
to make it perfectly clear that this language is intended to be aspirational rather than mandatory, the
subcommittee, with Sandy’s blessing, changed all of the “shall” to “may”, removed the statement that
“no exceptions could be removed,” and made other minor linguistic adjustments. We were unable to
adjust the exemption limit downward, although I believe that would have been the preference of the
subcommittee.

With respect to the other issues – The issues around the exact language, e.g. what exemptions would
there be, how would the reporting happen, etc. would necessarily be resolved as part of the
negotiations between the State and the Select Board. Sure it would be ideal if it were all decided now,
but it certainly doesn’t have to be for there to be support for assessing a real estate transfer fee (as
many other communities do) and using the proceeds for affordable housing purposes. The biggest
stumbling block from the committee’s perspective was the question of whether there should be a dollar
threshold for this at all and, if so, where it should start.

And finally with respect to the question of the Land Bank Study Committee, the subcommittee
supported the goals of this warrant article and felt that the desire for timely action outweighed the fact
that by definition there remained some details that would have to be worked out between the State
Legislature and the Select Board. But with that said, there was significant public support at the hearing
for referring this to the Land Bank Study Committee, and I suspect that option will get much attention
tonight.

By a vote of 2-0-0 the Admin and Finance Subcommittee recommended favorable action on the motion
as amended.”

The petitioner, Wendy MacMillan, offered her comments noting that she benefits from living in a
subsidized apartment so she represents the heart of this article.

“I am here today and speaking to a warrant that I co-sponsored because I know firsthand how difficult
life is when you are struggling to make ends meet and I know how life changing it is to be able to live in
an affordable apartment in Brookline. We need to commit to affordable housing in Brookline! There is a
real need, it is critical that we address it and I believe Warrant Article 9 is a really good step forward!
I have lived in Brookline for 12 years but prior to that I have worked in Brookline for over 30 years. My first job in Brookline was with a Former Selectman, Michael Merrill, I was his children’s live-in nanny. I helped Michael canvas for his selectman position and have had an interest in our town politics ever since. For the past 18 years I have worked as a Brookline paraprofessional, I made a career change because my son, who has a diagnosis, needed a mum who could be available to him when his life got rough. For that purpose my job has been great in every way except financially. By the time my son was in elementary school we were living in rooms that were vacant in a friend’s house, or a friend of a friend’s house; it wasn’t a great way to bring up my child but it worked for a while and for a couple of years we even felt a sense of security but then the death of the owner of the room we rented pulled the rug out from beneath us. We were on the verge of homelessness when we were given a subsidized apartment in Brookline. In this apartment my son for the first time got to sleep in an actual bedroom and on a bed instead of a camping cot; he was 10 years old. It was truly a blessing to be able to move into an apartment in the town I worked in, a town where roots had been growing for years, a town where we felt safe.

My story is not very different from countless other people like me, a single mum, a working mum, an educated mum, what singles me out is that I did get a subsidized apartment, I was one of the lucky ones. It’s a little hard to admit this as I see firsthand how much harder it is today than I thought it was 12 years ago but my luck came by knowing a work colleague who knew someone whose spouse worked for the corporation who owned my apartment complex. This person is responsible for my son never having to experience homelessness. Luck of all kinds is incredibly rare in the climate we live in today. Every day the struggle to find somewhere affordable to live gets harder. It is hard for the poor; it is hard for the young men and women who are just establishing their lives; it is even harder today for the middle class.

In my immediate community we are losing our affordable units as the management company upgrades apartments once a tenant has moved out. These renovated apartments are then rented out at market value rents. Some of these units are 3 times the cost of mine. My community has been here for decades but management made a deal with the town that when their mortgage was paid off they could do this. Rumor has it we will lose 2/3 of our affordable units. I have witnessed families after 20+ years lose their family home with nowhere to go. It is difficult to still feel safe when you see this happening on a regular basis.

I know for a fact that without affordable housing I would not be able to live in this town that both my son and I call home and where we work. I honestly don’t know what my next step would be if I lost my apartment. The reality is that I would once again be facing homelessness. I also know for a fact that there are countless people in Brookline that are struggling, waiting lists are more often than not closed, for your name to be called on the internal lists there is at the very minimum a 4 year wait, of for some lists and lotteries the amount of money you need to be earning to have your name put on the list is simply out of reach for those who are really struggling financially.
Let’s be honest though this is not just true for Brookline, it is true everywhere, many towns are feeling the critical need for affordable housing options. Mayors, City Councilors’, and Town Meeting members in Boston, Somerville, Cambridge, Arlington, and Lexington are also working on petitions like Brookline’s. This warrant article will send the message to the Governor and our legislators that Brookline, like these other communities, needs affordable housing relief NOW.

I want you to support this warrant because Brookline needs an avenue to address this critical need, we are not going to put a dent in fixing this needs with the 40B threshold of 10%, and we need to be able to give hope HOPE to those who are being pushed out of Brookline based on their inability to find affordable housing.

I would like to say in response to the request to refer WA 9 to the Land Bank Committee – Article 9 focuses only on funding and town hall staff for affordable housing. We strongly believe affordable housing is the most important, crucial, fundamental priority. The reason is that at the end of the day people need a bed to sleep on. A park bench is not a home. Think about this, without a home nothing else can happen: not education for children, not jobs for their parents, not dignity with old age.”

QUESTIONS AND COMMENTS

Q: How does this dovetail with what the Land Bank is doing? A: Not in competition with land bank, broader approach worth considering. Meet eleven times, stuff on item 4 – examine economic impact of transfer tax. Nantucket has 6 home rule petitions. This is a home rule petition for a transfer fee for up to 2% tax – rates are at the discretion of the Select Board.

This is a cumulative tax, not more than... Or we could say in the aggregate could not be more than...

1) State Legislature 2) Town Meeting 3) Town-wide ballot which would be voted; this gives the Town authority and then legislation is drafted and voted.

Q: Real estate people, did that come up in the discussions? A: Transactions to derive figures – some dispute about these. 2% tax regardless of the number of transactions, number and average size would not change.

Language from BHA, came after the hearing. Select Board voted to refer this to the Land Bank Study Committee. Property transfer fee for multiple use – open space, schools, and affordable housing.

Comments:
• What message do we send with this vote? Rush through because of stuff going on at the State House? Need tax and additional revenue welcome – needs of schools, deferred capital projects, overrides to come, to take funds and say only use for one purpose doesn’t make sense.
• We want a bill that gives us flexibility with that revenue.
• Provisions and other exemptions would be worked out after the right given to draft legislation.
- This is pitting on segment of the community against the other.
- Renters don’t pay taxes to the extent that homeowners do.
- Distorted and unfair, so variable.
- Message needs to be one of the priorities in our community is about who is able to stay here.
  More concerned about people in low income situations that don’t have sufficient housing.
  Affordable housing should be prioritized. Not referring it back. Parks and Schools already got a lot of attention.
- Seniors concerns having sufficient funds to see them through the rest of their lives.
- Seniors on fixed incomes, for many house is their nest egg and what they need to retire on. Fearful about the tax.
- People who own property in Brookline have done well – increased values. Hits income for fixed income. 2% is fungible. Better served by transfer tax rather than getting hit with an override.
- We should be increasing affordable housing for seniors but recognize that there is financial anxiety among elders even those who could easily afford this.
- Support John’s motion for referral to back to the Land Bank because there is a process in place.
- 2% on top of other closing costs – what is the net impact? Taking off the top what they have in equity in their home. Largest asset and source of net worth.
- Advantages to changing 1.0 to 2.0 in aggregate. Logistics question on how you close with the buyer and seller. Make a lien on the property. Market and legislation will dictate.
- This is a town that didn’t seek state funds to support three new/expanded schools. What is genuinely affordable for Brookline? What makes sense? We have a commitment to affordable housing. State referendum took away rent control, which Brookline and Cambridge supported keeping it.
- This article should go back to committee for refinement.

A MOTION was made and seconded for Favorable Action on WA9 as amended by the subcommittee.

A MOTION was made and seconded for Referral to the Land Bank Study Committee. By a VOTE of 19 in favor, 3 opposed and 2 abstentions, the Advisory Committee recommends referral of WA9.

9:00 pm Article 17 Resolution pertaining to Open-Air Parking Licenses and Electric Vehicle Charging Outlets. (C. Scott Ananian, TMM Pct.10, petitioner) – Possible Reconsideration

There was no motion to reconsider Article 17.

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Upon a MOTION made and seconded to adjourn, and voted unanimously, the meeting was adjourned at 9:58 pm.

Documents Presented:
Article 5
Schools and Capital Subcommittees Report

Article 20
Planning and Regulation Subcommittee Report
Petitioner’s proposed amendments
Pehlke Comments
Davis Comments

Article 9
Administration and Finance Subcommittee Report
Amended by Subcommittee Article
BHA Comments
Cohen Comments

Article 17
ARTICLE _______

Petitioner: Robert Zuker, 22 Griggs Road, Brookline MA 02446

Cell: 617-212-1131

To see if the Town will amend the Zoning By-Law as follows (proposed new language is underlined and deletions are noted with a strike through):

1. By amending the Table of Use Regulations, Section 4.07, Principal Uses, Section 6D. Dwelling, Micro Unit as follows:

<table>
<thead>
<tr>
<th>Principal Uses</th>
<th>Residence</th>
<th>Business</th>
<th>Ind.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>S</td>
<td>SC</td>
<td>T</td>
</tr>
<tr>
<td>RESIDENCE USES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6D. Dwelling, Micro Unit</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

   *Permitted by Special Permit in the I-(EISD) District in accordance with 5.06.4.j.

   **Permitted by Special Permit in the G-1.75(CC) in accordance with 5.06.4.b.

2. By amending Section 5.01 – Table of Dimensional Requirements and the Footnotes to the Table by adding a footnote 21 as follows (new language is underlined):

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>USE</th>
<th>LOT SIZE MINIMUM (sq. ft.)</th>
<th>FLOOR AREA RATIO MAXIMUM</th>
<th>PBI NB ONLY</th>
<th>LOT WIDTH MINIMUM (feet)</th>
<th>MAXIMUM HEIGHT</th>
<th>PBI</th>
<th>MINIMUM YARD</th>
<th>OPEN SPACE (% of gross floor area)</th>
<th>B</th>
<th>NB</th>
<th>Front</th>
<th>Side</th>
<th>Rear</th>
<th>Landsc.</th>
<th>Usable</th>
</tr>
</thead>
<tbody>
<tr>
<td>G-1.75%</td>
<td>Any structure or principal use (dwelling - footnote 5)</td>
<td>None*</td>
<td>1.75</td>
<td>2.25</td>
<td>none</td>
<td>45</td>
<td>NA</td>
<td>70 (C C) **</td>
<td>none</td>
<td>none</td>
<td>10+L /10</td>
<td>none</td>
<td>none</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

   FOOTNOTES:
21. For property in the G-1.75 (CC) see also Section 5.06.4.b.

3. By amending Section 5.06.4.b Coolidge Corner General Business District paragraph 2 as follows (new language is underlined):

2) For such applications, the Board of Appeals may grant by special permit an increase in gross floor area subject to the procedures, limitations, and conditions of Table 5.01 and 65.21, however, in the case of an application for a building that contains seventy-five percent (75%) or more Micro Unit Dwellings, the requirement set forth in 65.21.2.b requiring that the lot or part of the lot be 20,000 square feet or more in order to qualify for Public Benefit Incentives shall not apply.

34. By amending Section 5.06.4.b Coolidge Corner General Business District paragraph 5 as follows (new language is underlined):

5) For such applications, residential development shall be permitted above the first floor. Notwithstanding anything to the contrary in this By-Law, common areas, lobby or amenity space for a building that contains seventy-five percent (75%) or more Micro Unit Dwellings shall be considered non-residential space for the purposes of complying with Section 4.07.6 with respect to the requirement that in L and G districts no more than 40% of frontage may be devoted to residential use, so long as such space does not front on Harvard or Beacon Street.

5. By amending Section 5.32.2(b)(1) by adding the following language (new language underlined):

Section 5.32.2(b)(1):

In M-1.5, M-2.0, M-2.5, G-1.75, and O-2.0(CH) Districts, the setback requirement from any street lot line on which the lot fronts shall be one-half of the width of the street right-of-way, up to a maximum requirement of 50 feet. Notwithstanding the foregoing, this setback requirement shall not apply to Public Benefit Incentives for Micro Unit Dwellings in the G-1.75 (CC) district.

46. By amending Section 6.02, Paragraph 1, TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS by adding another paragraph as Note #3 after Note #2 below the Table as follows (new language is underlined):

3. For Use 6D (Micro Unit Dwellings) the maximum number of spaces for each Micro Unit Dwelling shall be 0.5, and no additional spaces shall be required for floor areas used for common areas, lobby or amenity space.
§7. By amending Section 6.02.2.i by adding language as follows:

i. Residential uses on any lot for which any portion of the lot is within the Transit Parking Overlay District, notwithstanding the requirements of §3.02 paragraph 4, must provide no fewer off-street parking spaces per dwelling unit than 1 for studio units, 1.4 for one-bedroom units, 2 for two bedroom units, 2 for dwelling units of three or more bedrooms. For Micro Unit Dwellings no vehicular parking is required, however, space to park one bicycle shall be provided for each Micro Unit Dwelling.

or act upon anything else relative thereto.

EXPLANATION

Currently, Micro Unit Dwellings as defined in the Zoning By-Law are residential units no greater than 500 square feet in gross floor area per unit. See, Section 2.04 (3)(f) of the Brookline Zoning By-Law. Micro Unit Dwellings have been recognized by the town as a useful way to provide housing for individuals at a relatively affordable cost. In addition, because of the smaller size of these units they have a smaller ecological footprint than larger 1 bedroom units. Several years ago when the Town approved the Emerald Island Special Overlay District (EISD) Micro Unit Dwellings were allowed in the EISD. However, no other zoning district in town permits the development of Micro Unit Dwellings. To date, no Micro Unit Dwellings have been developed or proposed in the EISD. This article seeks to allow Micro Unit Dwellings in the G-1.75 (CC); the Coolidge Corner General Business District with a special permit from the Zoning Board of Appeals. This article also seeks to provide more flexibility for Micro Unit Dwellings to use Public Incentive Benefits by eliminating the requirement that the lot contain a minimum of 20,000 square feet. In addition to providing much needed housing to individuals, Micro Unit Dwellings can also provide a boost to the nearby retail businesses. The Coolidge Corner General Business District is a suitable spot for Micro Unit Dwellings due to the existing density, many nearby retail and civic establishments and public transit options.
Hello Lisa -

I had attended the Planning and Regulation Subcommittee's initial hearing on Art. 20 on Sept. 25th; then I attended the Planning Board's hearing Oct. 17th; but I was unaware of the date the Subcommittee would resume its hearing of Art. 20. I would now like to submit to the Advisory Committee the following statement, along with a short attachment. I had originally intended to submit this to the Subcommittee, but I now see that I'm too late for that. Hence, I'm submitting this statement now to the full Advisory Committee, with the hope that it will be given to the members.

My observations about Article 20 follow.

1. History of the Emerald Island Special District

Article 20 would import into the Coolidge Corner General Business District ("CCGBD") the Emerald Island concept of a "Dwelling, Micro Unit". The Emerald Island zoning was devised by the River Road Study Committee, which consisted of 17 members, many of them specialists in various disciplines including zoning, land use planning, business, law, and others. According to the Combined Reports for the November 2016 Town Meeting, the Committee took the better part of a year to craft what became the zoning by-law for the Emerald Island Special District.

In contrast, the current Article 20 is essentially designed by the petitioner and his personal advisors.

The November 2016 Combined Reports state that the site for the Emerald Island Special District was unique in Brookline: it had no residents; its lots were “odd shaped and shallow”; it had only a few lots; it is separated from the nearest residential area by a wide major street; its uses were, at the time, Brookline Ice & Coal, a veterinarian clinic, a yoga studio, and a shuttered gas station; and it is surrounded by public ways. In contrast, the CCGBD is densely populated. The Town’s GIS Department estimates the CCGBD’s population at about 2,850. This is close to 5% of the Town’s entire population – a far cry from Emerald Island’s having no residential population, and being separated from the nearest residential area by a wide major artery.

Furthermore, the already dense population of the CCGBD is scheduled to increase: Chestnut Hill Realty will be building a massive apartment building at Waldo Street; across Beacon Street, Neena’s will be replaced by another massive 40B apartment building; and just East of the CCGBD, at the intersection of Beacon and St. Paul, across from the Holiday Inn, Chestnut Hill Realty will be expanding its current apartment buildings as a larger 40B. Also, whether Art. 20 is enacted or not, the petitioner will be building a multiunit residential building at the site he controls on Webster Street. In addition to these increases to the residential population, 30 Webster Street will be the site of a new 112 unit (plus or minus) hotel; the ever present Chestnut Hill Realty will be building a large full service hotel at Waldo Street; and 1351 Beacon Street will be a retail marijuana store. All of these will bring even more shopper foot traffic to the CCGBD - without Article 20. This is the complete opposite of the situation the River Road Study Committee confronted when it crafted the zoning for the Emerald Island Special District.
This, of course, raises the question: if any of the Emerald Island zoning should be imported to another part of Brookline, why do so with the CCGBD, which is already so richly favored with advantages that the Emerald Island lacks? Why not, for example, import some of the Emerald Island zoning to a less endowed location – whether another general business district, or outside a general business district but in in proximity to it (e.g., the stretch of Washington Street between Washington Square and the town line at Corey Road), or even to a local business district?

The Planning Board in a close decision, 3 -2, voted to approve Article 20. But, the minority members of the Planning Board were sensitive to the hubris of willy nilly reshaping the heart of Brookline, the CCGBD, without the kind of careful, expert and lengthy study that produced the Emerald Island zoning.

Put another way – what’s the rush? Put yet another way, is Brookline populated by hayseeds and rubes who can be stampeded into making such a significant change without thoughtful, expert, careful and deliberate analysis?

The obvious reason for the rush is that the petitioner controls a parcel on Webster Street and he has decided that he could build a more profitable project if only Brookline would change the Zoning for the district where his property is located.

2. Whoppers

The Explanation of Article 20 states what it calls “micro units” are not permitted outside the Emerald Island Special District; and the petitioner and his spokesmen have said, in their oral presentations, that the Emerald Island zoning inadvertently banned “micro units” in the rest of Brookline. Nothing could be further from the truth.

A Telling Anecdote: Before getting into the details, here is a pertinent anecdote. The Emerald Island zoning was enacted by Town Meeting in November, 2016. In the Summer of 2018, the law firm that is now representing Mr. Zuker (Robert Allen Law) presented a series of plans to the Planning Board in support of a proposed apartment building at 71 Winchester Street. (The developer in that matter was a third party, unrelated to Mr. Zuker). Several iterations of those plans contained units of less than 500 sq. ft. (See attachments taken from two sets of plans, one presented in July and one in August, 2018). Yet, Atty. Allen – the name partner of Mr. Zuker’s law firm - argued vigorously and skillfully for the Planning Board to accept the proposals, and never let on to the Planning Board that the plans violated the Emerald Island zoning. In addition, the Planning Board, itself, never said a word (I know, because I was there) that the plans, containing units smaller than 500 sq. ft. were defective because “micro units” were prohibited outside the Emerald Island. I relate this anecdote because no one at that time – including Atty. Gilbert’s partner and including the Planning Board – even contemplated, let alone took seriously, the idea that dwelling units of 500 sq. ft. or less are prohibited by the Emerald Island zoning.

In fact, a plain reading of the Zoning By-Law (“ZBL”) demonstrates that the Emerald Island zoning says nothing about prohibiting units of 500 sq. ft. or less outside the Emerald Island.

The Zoning By-Law: For starters, ZBL sec. 2.04.4 defines the term “Dwelling Unit”. It is defined as: “A room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking and eating.” There is no limitation on the size of a Dwelling Unit – whether in terms of maximum size or minimum.

This is bolstered by the zoning by-law for the Davis Path General District, in setting limits for on-site parking:

“Parking requirements may be reduced from ... the Table of “Off-Street Parking Space Requirements”, for the following uses:
1. Residential studio units that are less than 500 net square feet in size: 1.0 parking spaces per dwelling unit”. [ZBL sec. 5.06.4.g.7)c] i.1] [emphasis added]
Note the ZBL’s use of the term “dwelling unit”.

And bolstered by ZBL sec. 5.06 Special District Regulations:

“...(T)he Board of Appeals may grant by special permit a maximum gross floor area and a number of dwelling units higher than permitted in Table 5.01....” [ZBL sec. 5.06.4.a.3]

And bolstered by the ZBL’s definition of “Home Occupation”:

“An activity customarily carried on by the permanent residents of a dwelling unit, inside the dwelling unit, requiring only customary equipment .... [ZBL sec. 2.08.4.a]

And, also, see current (November, 2019 Town Meeting) Warrant Articles 18 and 19, which are replete with use of the term “dwelling unit”.

IN CONTRAST, the Emerald Island zoning created a new concept:

“Dwelling, Micro Unit: A building or any portion thereof containing residential units measuring no greater than 500 square feet in gross floor area per unit. ....” [ZBL sec.2.04.3.c]

This is not a micro unit, or even, capitalized, a Micro Unit – it is a “Dwelling, Micro Unit”. It differs from a Dwelling Unit because it has a different legal name; because it is only allowed by a special permit (see below); and because it is inextricably bound to its own unique parking rules (see below).

The Table of Use Regulations, sec. 4.07 Use 6D states that a “Dwelling, Micro Unit” is: “Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.”

In other words, it doesn’t exist without a special permit, and even if a special permit is granted for a “Dwelling, Micro Unit” it must be in accordance with 5.06.4.j. There cannot be a “Dwelling Micro Unit” without a special permit and without compliance with 5.06.4.j.

In contrast, there is no requirement that a plain vanilla “Dwelling Unit” – which has no size limitations – must be by special permit and must be in compliance with 5.06.4.j.

5.06.4.j.5.a provides:

“Notwithstanding Section 6.02, there shall be no minimum parking requirements for the following uses and such uses shall have the maximum parking limits noted in Table 5.06.4.j.2 below.” That table, in turn, states that “Principal Use 6D (Dwelling, Micro Unit)” permits maximum parking of 0.5 spaces per unit.

These features of a “Dwelling, Micro Unit” are so unique as to make a “Dwelling, Micro Unit” a different species from a “Dwelling Unit” – just like a prairie dog is a different species from a dog, and a guinea pig is a different species from a pig. They are both four footed mammals, but the differences are too obvious. A “Dwelling, Micro Unit” cannot exist outside the Emerald Island and, even within the Emerald Island, it cannot exist without a special permit, and even if allowed by special permit it must comply with its unique parking regime - but that just applies to the “Dwelling, Micro Unit”, and not to “Dwelling Units” which have no size limitations (including small size), which don’t require special permits, and which must fit into the general parking regime elsewhere in the Town.

How To Interpret a Statute: The idea, suggested in the petitioner’s Explanation of Article 20 and stated in the petitioner’s oral presentation, that the Emerald Island zoning prohibits Dwelling Units of 500 sq. ft. or less outside the Emerald Island ignores a fundamental legal principle. The principle is: where possible, statutes are to be interpreted harmoniously with each other, and not in conflict. If the petitioner’s assertion is correct – that the Emerald Island zoning
prohibits Dwelling Units of 500 sq. ft. or less everywhere else in Brookline – that would cause the Emerald Island zoning to conflict with the rest of the Zoning By-Law.

Perhaps, if the Combined Reports in November, 2016 for Article 7 – the Emerald Island zoning – said, anywhere, that the intention was to prohibit Dwelling Units of 500 sq. ft. or less elsewhere in Brookline – then, perhaps, that might justify pitting the Emerald Island zoning against the rest of the Zoning By-Law. But, there was nothing of the sort in the Combined Reports.

Therefore, Emerald Island zoning must be interpreted harmoniously with the rest of the Zoning By-Law; and in this case the interpretation happens to be the plain and obvious one – that the ZBL’s definition of “Dwelling Unit” and its continual use of that term is the general rule, that “Dwelling, Micro Unit” – unique by requiring a special permit and its own baked in parking regime - is confined to the Emerald Island, and that it does not conflict with other provisions of the Zoning by-Law.

If we accept the fabrication that the Emerald Island zoning – contrary to a plain reading of the ZBL, and contrary to a fundamental rule of interpreting statutes – prohibits Dwelling Units of 500 sq. ft. or less everywhere in Brookline except (and by special permit) in the Emerald Island – then, we will have swallowed a whopper.

Respectfully submitted,
Jonathan Davis
TMM Pct. 10
Second Floor Plan

71 Winchester St.
71 Winchester Street
Brookline, MA 02446

8/9/18
Hello Steve: Please circulate the comments below to the Planning and Regulation Subcommittee in advance of tonight’s public hearing on WA 20. I am only able to attend until 6:45 pm so may or may not get a chance to voice these concerns to the committee tonight.

Thank you, Linda Olson Pehlke

I am generally in support of allowing micro-unit housing. However, there are a number of features to this proposal that give me pause and if these issues are not addressed by amendments would cause me to oppose this article. If not substantially amended, I recommend referral of this article to a study committee to assess whether or not such district wide changes are appropriate and/or desirable.

1) This Zoning By-Law amendment appears to be designed to facilitate a singular micro-unit development proposal. Despite the fact that the proponent has a single project proposal in mind, the developer is seeking to alter the zoning parameters around the public benefit incentives for the entire G 1.75 district. The broad-based applicability of this proposed zoning change means that we are being asked to move forward with a change that has not been evaluated for suitability throughout the district, or for the site specific proposal either. With the proposed change to access PBI FAR and height bonuses, through changing Section 5.06.4.b by eliminating the lot size requirement and the setback requirements when PBI incentives are used, the negative conditions the PBI rules seek to limit (namely inappropriate siting of buildings with additional height or FAR) cannot be evaluated. We have no real way of knowing if allowing these density and height bonuses would be appropriate throughout the district. A change to allow 70’ height rather than the 45’ maximum height alone is enough to lead me to ask whether or not this height would be universally appropriate throughout the district. I doubt that it would.

2) The petitioner will likely argue that the determination of suitability will still be in the hands of the ZBA through the special permit process. However, the proposed changes, allowing the additional height and FAR will be the permitted use. It is the usual practice of the ZBA to allow full utilization of the allowed FAR, etc and to in fact make exceptions to other zoning provisions to allow the project proponents to utilize their full development rights. I do not see the special permit process as a sufficient safeguard to limit the application of the height and FAR bonuses throughout the district.

3) Because this is a proposal being brought by a developer, we are seeing for the first time an effort to tailor a zoning change for a particular site, without going through the towns' usual process of assembling a Town committee with professionals that carefully studies the proposal. Besides simply writing site specific zoning, the proponent is seeking to apply the same new zoning throughout the district.
4) There is a discrepancy in the treatment of the parking requirements. While a maximum parking ratio of 0.5 spaces per unit is proposed as an amendment to micro units in the parking table and therefore applicable throughout town, the elimination of parking requirements (removal of the minimum requirement) is referenced as an amendment to the Transit Parking Overlay District. I agree with the elimination of a minimum parking requirement and the proposed maximum of 0.5, however, I believe the requirements should apply to the same geography.

Thank you for your consideration. Again, without substantial amendments, I recommend referral to a study committee.

Yours, Linda Olson Pehlke, TMM Pct. 2
BROOKLINE HOUSING AUTHORITY PROPOSED REVISIONS TO

A RESOLUTION TO REQUEST THAT THE LEGISLATURE GRANT THE TOWN OF BROOKLINE AUTHORITY TO LEVY A REAL ESTATE TRANSFER FEE

Warrant Article 9

Petitioners: Wendy MacMillan, TMM P 4; David Lescohier, TMM P 11; Deborah Brown, TMM, P 1

To see if the Town will authorize and empower the Select Board, on such date and in such manner as required by the House Clerk, to file a petition for legislation to authorize the Town to levy a real estate transfer tax, which will be considered in the legislative session opening on the first Wednesday in January in the year 2020, provided that the General Court may reasonably vary the form and substance of this requested legislation which shall be within the scope of the general public objectives of this petition.

WHEREAS Brookline is one of the state’s wealthiest towns with a median household income, of $111,289 one of the highest in Boston’s inner-core and the median for married couples with dependent children is approximately $260,756. Elderly women living alone earn $32,519 per year.

WHEREAS Brookline has the highest median home price of any community in the Commonwealth, at $892,959 and the average market rent is approximately $3,435.

WHEREAS affordable housing is further compounded and complicated by a combination of regional housing demand and constrained supply.

WHEREAS housing owned and or sponsored by the Brookline Housing Authority (BHA) is a necessary resource for sustaining demographic diversity and for sustaining the supply of affordable rental housing in Brookline, and the BHA’s properties are in need of significant capital repair, and the BHA in 2018 initiated an extensive Preservation Initiative to renovate its properties.

WHEREAS in view of limits on Brookline revenue growth, there is likely insufficient funding from existing sources for affordable housing purposes after meeting the Town’s existing operational and infrastructure maintenance commitments.

WHEREAS the Town of Brookline’s Land Bank Study Committee has researched a real estate transfer fee to expand Brookline affordable housing, among the possible purposes. Since the State House, however, will be considering transfer fee legislation for Somerville and Cambridge beginning in January 2020, it is urgent that the Town file its petition at the beginning of this upcoming legislative session so that Brookline may join this official conversation prior the scheduling of the session's hearings.
WHEREAS the Real Estate Transfer Fee, as recommended, to fund the Brookline affordable housing trust fund is equitable, very low impact, and inexpensive to administer.

WHEREAS a real estate transfer fee would be in line with the direction neighboring communities including Concord, Cambridge and Somerville are moving to employ a Real Estate Transfer Fee to create affordable housing.

WHEREAS this type of fee is appropriate to fund housing and clearly defined, non-recurring purposes.

WHEREAS a real estate transfer fee earmarked for the affordable housing trust is well suited to operate within the Town’s organizational structure and financial policies, and is specifically adapted to and compatible with the unique combination of long established urban and suburban neighborhoods and commercial districts in Brookline.

THEREFORE, the Town of Brookline hereby requests that the Legislature grant the Town of Brookline authority to levy a real estate transfer fee of the portion of the purchase price exceeding $500,000 upon the transfer of the purchase price of non-exempt real estate transactions, not to exceed 1.0 % is to be paid by the seller and not to exceed 1.0% to be paid by the buyer. Any agreement between the purchaser and the seller or any other person with reference to the allocation of the liability for the fee shall not affect such liability of the purchaser to the Town. The Town may define by bylaw what constitutes a controlling interest and the calculation of the fee.

And that the Town shall authorize certain transfers of real property interests be exempt from the fee including: transfers to the federal government, the Commonwealth, the Town, and any of their instrumentalities, agencies or subdivisions, including the Brookline Housing Authority; transfers to the Brookline Improvement Corporation; transfers of real property subject to an affordable housing restriction; transfers made without additional consideration to confirm, correct, modify or supplement a transfer previously made; and transfers to a charitable organization, as defined in clause Third of section 5 of chapter 59 of the General Laws, or a religious organization, provided, however, that the real property interests so transferred will be held solely for the production of affordable housing.

And the Town may not, by bylaw or otherwise, eliminate or reduce any exemption set forth in this in this law.

And that the Town may use existing property tax collection and billing methods. The fee shall be paid to the Town. The Town shall have such remedies to collect the fee as provided by law with respect to the collection of real property taxes. The Town may, by by-law, adopt additional requirements, exemptions, and regulations to implement or enforce said fee, consistent with this act.
And that the Town shall through policy, regulation and or by-law require prioritization of projects that employ sustainable practices which focus on increasing the efficiency of resource use — energy, water, and materials — while reducing building impacts on human health and the environment during the building's lifecycle, through better siting, design, construction, and use.

And that the Town shall through policy, regulation and or by-law require prioritization of projects that employ mixed income and mixed-use development as characterized as pedestrian-friendly development that blend two or more residential, commercial, cultural, institutional, and/or industrial uses.

And that the Town shall through policy, regulation and or by-law require prioritization of projects, including renovation projects, that preserve and or expand the supply of housing affordable for low income renter households, and give particular consideration for such projects owned and or sponsored by the Brookline Housing Authority (BHA).

And that the Town shall require a copy of the deed or other instrument evidencing such transfer and shall be accompanied by: (i) an affidavit signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting to the purchase price; (ii) the applicable fee owed or, if applicable, an affidavit of intent to seek one of the permissible exemptions, as described above for that property by the purchaser; and (iii) the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from said fees. Upon receipt of the transfer fee or satisfactory evidence of exemption, the Town or its designee shall promptly thereafter issue a certificate indicating that the fee has been paid or that the transfer is exempt from the fee. The Norfolk Registrar of Deeds shall not record or register a deed unless the deed is accompanied by such certificate.

And that the Town’s appropriation of funds into the Municipal Affordable Housing Trust Fund under the provisions of MGL Chapter 44 Section 55 C, shall be limited to financing affordable housing and reasonable amounts for personnel and other costs.

And that the Town shall prepare and issue an annual report that: (i) identifies fee receipts; (ii) quantifies affordable housing programs funded, including type and purpose; and (iii) evaluates the impact of said affordable housing programs, including but not limited to, to the extent reasonably possible and permitted by applicable law, the number and demographics of individuals and families served as well as measures of housing stability and wealth generation in the community.

and

And that this Act shall only become effective by a majority vote for a question on a Town election ballot.

or act on anything relative thereto.
THE CASE FOR PRESERVING BROOKLINE PUBLIC HOUSING

In 2015, the Brookline Housing Authority (BHA) published its Strategic Plan – *Investing in People and Place*. In the Strategic Plan, the BHA committed to rehabilitate its existing properties and preserve them for future generations as its foremost goal.

The BHA was created under state law in 1948 as an independent public agency under MGL Ch. 30B serving the Town of Brookline. From the 1950s through the 1970s, the BHA constructed the 920+ apartments at 12 sites throughout town that comprise today’s BHA inventory. From its founding, the BHA has provided safe and decent affordable housing that blends well into Brookline neighborhoods. The BHA also provides extensive self-sufficiency based resident services for all households including ESL classes, career development, community policing, mental health counseling, service coordination for seniors, and more.

The 920+ BHA apartments significantly contribute to diversity in the Brookline population. Nearly half of all affordable housing in Brookline is owned and operated by the BHA. BHA properties are community assets that embody the Town’s legacy and commitment to diversity and inclusion.

Though BHA apartments today are safe and well-maintained, Brookline public housing is at serious risk. Traditional state and federal public housing funding has fallen far short of capital needs. Most properties face multi-million dollar capital repair deficits. Plumbing and mechanical systems are well beyond their typical useful life, energy use is inefficient, kitchens and bathrooms are old and tired, and land is not well utilized.

Having recently completed the on-time and on-budget new construction of 86 Dummer Street, the BHA has demonstrated the capacity required for the upcoming task: A major campaign to rehabilitate BHA properties. The task will be complex and expensive. Applying for scarce funding, crafting thoughtful designs, and engaging community input are long-term endeavors.

Funds are available outside of traditional public housing programs to support major redevelopment, particularly housing tax credits. In the coming months and years, the BHA will call on its partners in Brookline and elsewhere to provide funding, zoning and permitting, and other support needed to maintain Brookline’s legacy of high-quality affordable housing.
Redevelopment Principles

- All of the existing 920+ apartments will remain affordable housing and will serve low income seniors, families, and people with disabilities in perpetuity.

- Construction will comport with Brookline standards for high quality materials and design.

- Redeveloped properties will be energy efficient and environmentally friendly.

- The planning process will be inclusive and incorporate the views of Town stakeholders and especially the residents of BHA housing.

- Through the redevelopment process, the BHA will continue to strengthen its capacity to own and operate affordable housing.

- The BHA intends to explore the possibility of adding new units to its current inventory of apartments, to serve a wider range and greater number of households and to generate needed funds to finance the repair of the existing units.
Hi Lisa,

Please include this email and the attached to tonight's packet for WA9.

Dear Advisory Committee,

Please consider this material before voting on WA9.

Attached to this email are two reports from the MLS database. They include total almost every residential sale in Brookline in 2018 and YTD 2019. Each year just a few residences will convey off-market. These charts do not include land or commercial transactions but those numbers are minuscule compared to this MLS data. I have found the data on home sales presented by the petitioners to not match up to the actual numbers, in some cases not even close.

For example in 2018 there were 576 properties conveyed (not the 1500 mentioned last night at the select board hearing). Of that number all but 21 fell under $500k. The median sale price was $1,043,750. The median price of only single family homes was $1.9m and change. That would yield, under WA9, $28k from a median SF sale. That's a significant chunk more than just closing costs.

I believe you will read some language in the sub-committee report where the petitioners claim the estimated income from this tax represents only $85 per year per person. But this issue with a Transfer Tax vs a CPA is that the income is not derived from everyone, it comes from fewer than that 576 number. Why fewer than the number of transactions? Because many Brookline sellers are also Brookline buyers. We see many families sizing up from the first small condo into a larger condo or single family. We also see many downsizing within town as well. These residents would be penalized twice in their move around town. Especially when families are really stretching their budgets to stay here. That additional expense could mean forgoing needed repairs or updates.

Now you have the facts.

Please vote no action or at least a referral back to the Land Bank Committee.

Thank you for your time and consideration,

Cheers to all,
Lea
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Median Price: $1,043,750  
Highest Price: $6,160,000  
Average Price: $1,297,578  
Total Market Volume: $747,405,169
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Total Market Volume: $612,405,306
Mr. Sandman, Ms. Benka, and Ms. Portscher,

I just noticed that comments such as the following are due by noon today. I am hoping that you can accept this one, despite it being about 40 minutes beyond your deadline. With apologies for the inconvenience of the late submittal, would you kindly let me know?

This comment is similar to the one I made on behalf of the Housing Authority at the Select Board last night and others that the BHA has made at recent public forums.

1. As noted in the attached background paper, “...the future of Brookline public housing is at serious risk. Traditional state and federal public housing funding has fallen far short of capital needs. Most properties face multi-million dollar capital repair deficits. Plumbing and mechanical systems are well beyond their typical useful life, energy use is inefficient, kitchens and bathrooms are old and tired, and land is not well utilized.” In fact, the BHA will be asking the Select Board approval this December for approximately $1.3MM in Affordable Housing Trust funds to support the renovation of our 100-unit seniors property at 90 Longwood Avenue, with more requests to come in the months and years ahead.

2. Therefore, the BHA eagerly welcomes any mechanism that will generate funds for the Affordable Housing Trust, including WA #9 or any other mechanism(s).

3. The BHA appreciates that the petitioners for WA #9 have unanimously stated their support for including language in WA #9 to add preservation of existing affordable housing, particularly BHA properties, to the stated priority uses of funds generated from a transfer tax. The BHA is proposing to add one WHEREAS clause and one operative clause as shown below and in the second document attached. We ask that the Advisory Committee include and endorse this language in whatever ways are possible and appropriate.

    WHEREAS housing owned and or sponsored by the Brookline Housing Authority (BHA) is a necessary resource for sustaining demographic diversity and for sustaining the supply of affordable rental housing in Brookline, and the BHA’s properties are in need of significant capital repair, and the BHA in 2018 initiated an extensive Preservation Initiative to renovate its properties.

    And that the Town shall through policy, regulation and or by-law require prioritization of projects, including renovation projects, that preserve and or expand the supply of housing
affordable for low income renter households, and give particular consideration to such projects that are owned and or sponsored by the Brookline Housing Authority (BHA).

Thank you for your consideration.

Patrick Dober  
Executive Director  
Brookline Housing Authority  
90 Longwood Avenue  
Brookline, MA 02446  
pdober@brooklinehousing.org  
617-277-2022 x-306  
617-571-4797 – mobile
Warrant Article 9

Petitioners: Wendy MacMillan, TMM P 4; David Lescohier, TMM P 11; Deborah Brown, TMM, P 1

To see if the Town will authorize and empower the Select Board, on such date and in such manner as required by the House Clerk, to file a petition for legislation to authorize the Town to levy a real estate transfer tax, which will be considered in the legislative session opening on the first Wednesday in January in the year 2020, provided that the General Court may reasonably vary the form and substance of this requested legislation which shall be within the scope of the general public objectives of this petition.

WHEREAS Brookline is one of the state’s wealthiest towns with a median household income, of $111,289 one of the highest in Boston’s inner-core and the median for married couples with dependent children is approximately $260,756. Elderly women living alone earn $32,519 per year.

WHEREAS Brookline has the highest median home price of any community in the Commonwealth, at $892,959 and the average market rent is approximately $3,435.

WHEREAS affordable housing is further compounded and complicated by a combination of regional housing demand and constrained supply.

WHEREAS housing owned and or sponsored by the Brookline Housing Authority (BHA) is a necessary resource for sustaining demographic diversity and for sustaining the supply of affordable rental housing in Brookline, and the BHA’s properties are in need of significant capital repair, and the BHA in 2018 initiated an extensive Preservation Initiative to renovate its properties.

WHEREAS in view of limits on Brookline revenue growth, there is likely insufficient funding from existing sources for affordable housing purposes after meeting the Town’s existing operational and infrastructure maintenance commitments.

WHEREAS the Town of Brookline’s Land Bank Study Committee has researched a real estate transfer fee to expand Brookline affordable housing, among the possible purposes. Since the State House, however, will be considering transfer fee legislation for Somerville and Cambridge beginning in January 2020, it is urgent that the Town file its petition at the beginning of this upcoming legislative session so that Brookline may join this official conversation prior the scheduling of the session's hearings.
WHEREAS the Real Estate Transfer Fee, as recommended, to fund the Brookline affordable housing trust fund is equitable, very low impact, and inexpensive to administer.

WHEREAS a real estate transfer fee would be in line with the direction neighboring communities including Concord, Cambridge and Somerville are moving to employ a Real Estate Transfer Fee to create affordable housing.

WHEREAS this type of fee is appropriate to fund housing and clearly defined, non-recurring purposes.

WHEREAS a real estate transfer fee earmarked for the affordable housing trust is well suited to operate within the Town’s organizational structure and financial policies, and is specifically adapted to and compatible with the unique combination of long established urban and suburban neighborhoods and commercial districts in Brookline.

THEREFORE, the Town of Brookline hereby requests that the Legislature grant the Town of Brookline authority to levy a real estate transfer fee of the portion of the purchase price exceeding $500,000 upon the transfer of the purchase price of non-exempt real estate transactions, not to exceed 1.0% is to be paid by the seller and not to exceed 1.0% to be paid by the buyer. Any agreement between the purchaser and the seller or any other person with reference to the allocation of the liability for the fee shall not affect such liability of the purchaser to the Town. The Town may define by bylaw what constitutes a controlling interest and the calculation of the fee.

And that the Town shall authorize certain transfers of real property interests be exempt from the fee including: transfers to the federal government, the Commonwealth, the Town, and any of their instrumentalities, agencies or subdivisions, including the Brookline Housing Authority; transfers to the Brookline Improvement Corporation; transfers of real property subject to an affordable housing restriction; (transfers made without additional consideration to confirm, correct, modify or supplement a transfer previously made;); and transfers to a charitable organization, as defined in clause Third of section 5 of chapter 59 of the General Laws, or a religious organization, provided, however, that the real property interests so transferred will be held solely for the production of affordable housing.

And the Town may not, by bylaw or otherwise, eliminate or reduce any exemption set forth in this in this law.

And that the Town may use existing property tax collection and billing methods. The fee shall be paid to the Town. The Town shall have such remedies to collect the fee as provided by law with respect to the collection of real property taxes. The Town may, by by-law, adopt additional requirements, exemptions, and regulations to implement or enforce said fee, consistent with this act.
And that the Town shall through policy, regulation and or by-law require prioritization of projects that employ sustainable practices which focus on increasing the efficiency of resource use — energy, water, and materials — while reducing building impacts on human health and the environment during the building's lifecycle, through better siting, design, construction, and use.

And that the Town shall through policy, regulation and or by-law require prioritization of projects that employ mixed income and mixed-use development as characterized as pedestrian-friendly development that blend two or more residential, commercial, cultural, institutional, and/or industrial uses.

And that the Town shall through policy, regulation and or by-law require prioritization of projects, including renovation projects, that preserve and or expand the supply of housing affordable for low income renter households, and give particular consideration for such projects owned and or sponsored by the Brookline Housing Authority (BHA).

And that the Town shall require a copy of the deed or other instrument evidencing such transfer and shall be accompanied by: (i) an affidavit signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting to the purchase price; (ii) the applicable fee owed or, if applicable, an affidavit of intent to seek one of the permissible exemptions, as described above for that property by the purchaser; and (iii) the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from said fees. Upon receipt of the transfer fee or satisfactory evidence of exemption, the Town or its designee shall promptly thereafter issue a certificate indicating that the fee has been paid or that the transfer is exempt from the fee. The Norfolk Registrar of Deeds shall not record or register a deed unless the deed is accompanied by such certificate.

And that the Town’s appropriation of funds into the Municipal Affordable Housing Trust Fund under the provisions of MGL Chapter 44 Section 55 C, shall be limited to financing affordable housing and reasonable amounts for personnel and other costs.

And that the Town shall prepare and issue an annual report that: (i) identifies fee receipts; (ii) quantifies affordable housing programs funded, including type and purpose; and (iii) evaluates the impact of said affordable housing programs, including but not limited to, to the extent reasonably possible and permitted by applicable law, the number and demographics of individuals and families served as well as measures of housing stability and wealth generation in the community.

and

And that this Act shall only become effective by a majority vote for a question on a Town election ballot.

or act on anything relative thereto.
THE CASE FOR PRESERVING BROOKLINE PUBLIC HOUSING

In 2015, the Brookline Housing Authority (BHA) published its Strategic Plan – *Investing in People and Place*. In the Strategic Plan, the BHA committed to rehabilitate its existing properties and preserve them for future generations as its foremost goal.

The BHA was created under state law in 1948 as an independent public agency under MGL Ch. 30B serving the Town of Brookline. From the 1950s through the 1970s, the BHA constructed the 920+ apartments at 12 sites throughout town that comprise today’s BHA inventory. From its founding, the BHA has provided safe and decent affordable housing that blends well into Brookline neighborhoods. The BHA also provides extensive self-sufficiency based resident services for all households including ESL classes, career development, community policing, mental health counseling, service coordination for seniors, and more.

The 920+ BHA apartments significantly contribute to diversity in the Brookline population. Nearly half of all affordable housing in Brookline is owned and operated by the BHA. BHA properties are community assets that embody the Town’s legacy and commitment to diversity and inclusion.

Though BHA apartments today are safe and well-maintained, Brookline public housing is at serious risk. Traditional state and federal public housing funding has fallen far short of capital needs. Most properties face multi-million dollar capital repair deficits. Plumbing and mechanical systems are well beyond their typical useful life, energy use is inefficient, kitchens and bathrooms are old and tired, and land is not well utilized.

Having recently completed the on-time and on-budget new construction of 86 Dummer Street, the BHA has demonstrated the capacity required for the upcoming task: A major campaign to rehabilitate BHA properties. The task will be complex and expensive. Applying for scarce funding, crafting thoughtful designs, and engaging community input are long-term endeavors.

Funds are available outside of traditional public housing programs to support major redevelopment, particularly housing tax credits. In the coming months and years, the BHA will call on its partners in Brookline and elsewhere to provide funding, zoning and permitting, and other support needed to maintain Brookline’s legacy of high-quality affordable housing.
Redevelopment Principles

- All of the existing 920+ apartments will remain affordable housing and will serve low income seniors, families, and people with disabilities in perpetuity.

- Construction will comport with Brookline standards for high quality materials and design.

- Redeveloped properties will be energy efficient and environmentally friendly.

- The planning process will be inclusive and incorporate the views of Town stakeholders and especially the residents of BHA housing.

- Through the redevelopment process, the BHA will continue to strengthen its capacity to own and operate affordable housing.

- The BHA intends to explore the possibility of adding new units to its current inventory of apartments, to serve a wider range and greater number of households and to generate needed funds to finance the repair of the existing units.
Please vote NO to Article 9.
As a realtor I know how difficult is for the buyers to get fund to purchase a property in Brookline. Adding tax to selling property, forces sellers to pass this tax to buyer pay for it. It may be easy for the wealthiest to pay but it marginalize the middle and lower income buyers. After few years we won't be a diverse community.

My regards
Giti
--

Giti Ganjei Saeidian
Cell: 617-966-9823
giti.ganjei@gmail.com
Giti-RE.com

Do not vote for this. Please.
--

Avi Liss, Esq.
Principal Attorney, Liss Law, LLC
Office: 617-505-6919
Cell: 617-480-7233
Fax: 617-505-6921
Avi@lisslawboston.com
www.lisslawboston.com
233 Harvard Street #308
Brookline, MA 02446
Dear Lisa,
Please share my email below with the advisory committee that will be meeting tonight.
Thank you,
Ed

Dear Advisory Committee Members,
Please consider opposing the proposed “real estate transfer tax” for Brookline, as it presents an unnecessary monetary burden for home buyers and sellers. Please consider other options that may be more viable for the community.

There are significant negative impacts for Brookline if the transfer tax is implemented:
• The transfer tax is inequitable, as it singles out home buyers and sellers to pay for community wide expenses.
• It would undermine Prop 2 ½, which allows for property owners to decide for themselves whether to fund affordable housing.
• It would be an unstable source of revenue because it will be subject to any downturns in the real estate market.
• For sellers, it would decrease the equity of their home (at closing).
• For buyers, it would make Brookline less affordable and more “exclusionary.”
• It may cause owners to delay the sale of their homes, especially if they want to remain and buy in Brookline (as they’d have to pay as both seller and buyer), which would contribute to even less housing inventory in Brookline.
• It sets an unrealistically low threshold for applying the tax. As it currently stands, the transfer tax would be applied to the portion of the purchase price above $500,000. Per MLS data, of the 495 properties (SFHs, condos & MFHs) that sold in Brookline year to date, only 21 were less than $500,000. (The average sales price of the 495 properties was $1,263,317.)

Thank you for your consideration,
Ed

Ed Wieckowski, Broker | Realtor
William Raveis Real Estate, Mortgage & Insurance
1394 Beacon Street
Brookline, MA 02446
617.851.8556 cell | edwieckowski.com

Wire Fraud Alert: Do not wire transfer funds at any time without calling the intended recipient to confirm wiring instructions, as email confirmation may not provide sufficient security.
Dear Sirs

In my opinion, this "sales tax" is a backhanded way of raising funds and avoiding a proposition 2 override or an overall raising of taxes. The Town should work with the state such that State taxes paid when a house is sold should come back to the Town and used specifically for whatever purposes the sales tax was meant for. And if the sales tax is just to raise general funds, then this is akin to taxation without representation.

Sincerely

(Rabbi) Joshua Zuber

zuberco@sprintmail.com
ARTICLE 9

Submitted by: Wendy MacMillan, TMM4; David Lescohier, TMM11; Deborah Brown, TMM1

To see if the Town will authorize and empower the Select Board, on such date and in such manner as required by the House Clerk, to file a petition for legislation to authorize the Town to levy a real estate transfer tax, which will be considered in the legislative session opening on the first Wednesday in January in the year 2020, provided that the General Court may reasonably vary the form and substance of this requested legislation which shall be within the scope of the general public objectives of this petition.

WHEREAS Brookline is one of the state’s wealthiest towns with a median household income, of $111,289 one of the highest in Boston’s inner-core and the median for married couples with dependent children is approximately $260,756. Elderly women living alone earn $32,519 per year.

WHEREAS Brookline has the highest median home price of any community in the Commonwealth, at $892,959 and the average market rent is approximately $3,435.

WHEREAS affordable housing is further compounded and complicated by a combination of regional housing demand and constrained supply.

WHEREAS housing owned and or sponsored by the Brookline Housing Authority (BHA) is a necessary resource for sustaining demographic diversity and for sustaining the supply of affordable rental housing in Brookline, and the BHA’s properties are in need of significant capital repair, and the BHA in 2018 initiated an extensive Preservation Initiative to renovate its properties.

WHEREAS in view of limits on Brookline revenue growth, there is likely insufficient funding from existing sources for sufficient affordable housing purposes after meeting the Town’s existing operational and infrastructure commitments.
WHEREAS the Town of Brookline’s Land Bank Study Committee has researched a real estate transfer fee to expand Brookline affordable housing, among the possible purposes. Since the State House, however, will be considering transfer fee legislation for Somerville and Cambridge beginning in January 2020, it is urgent that the Town file its petition at the beginning of this upcoming legislative session so that Brookline may join this official conversation prior the scheduling of the session's hearings.

WHEREAS the Real Estate Transfer Fee, as recommended, to fund the Brookline affordable housing trust fund is equitable, very low impact, and inexpensive to administer.

WHEREAS a real estate transfer fee would be in line with the direction neighboring communities including Concord, Cambridge and Somerville are moving to employ a Real Estate Transfer Fee to create affordable housing.

WHEREAS this type of fee is appropriate to fund non-recurring expenditures.

WHEREAS a real estate transfer fee earmarked for the affordable housing trust is well suited to operate within the Town’s organizational structure and financial policies, and is specifically adapted to and compatible with the unique combination of long established urban and suburban neighborhoods and commercial districts in Brookline.

THEREFORE, the Town of Brookline hereby requests that the Legislature grant the Town of Brookline authority to levy a real estate transfer fee of the portion of any purchase price exceeding $500,000 upon the transfer of the purchase price of non-exempt real estate transactions, not to exceed 2.0% in aggregate to be paid by buyer and seller. Any agreement between the purchaser and the seller or any other person with reference to the allocation of the liability for the fee shall not affect such liability of the purchaser to the Town. The Town may
define by bylaw what constitutes a controlling interest and the calculation of the fee.

And that the Town may authorize certain transfers of real property interests be exempt from the fee including: transfers to the federal government, the Commonwealth, the Town, and any of their instrumentalities, agencies or subdivisions, including the Brookline Housing Authority; transfers to the Brookline Improvement Corporation; transfers of real property subject to an affordable housing restriction; (transfers made without additional consideration to confirm, correct, modify or supplement a transfer previously made; and transfers to a charitable organization, as defined in clause Third of section 5 of chapter 59 of the General Laws, or a religious organization, provided, however, that the real property interests so transferred will be held solely for the production of affordable housing.

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And that the Town may through policy, regulation and or by-law require prioritization of projects that employ sustainable practices which focus on increasing the efficiency of resource use — energy, water, and materials — while reducing building impacts on human health and the environment during the building's lifecycle, through better siting, design, construction, and use.

And that the Town may through policy, regulation and or by-law require prioritization of projects that employ mixed income and mixed-use development as characterized as pedestrian-friendly development that blend two or more residential, commercial, cultural, institutional, and/or industrial uses.
And that the Town shall through policy, regulation and or by-law require prioritization of projects, including renovation projects, that preserve and or expand the supply of housing affordable for low income renter households, and give particular consideration for such projects owned and or sponsored by the Brookline Housing Authority (BHA).

And that the Town shall require a copy of the deed or other instrument evidencing such transfer and shall be accompanied by: (i) an affidavit signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting to the purchase price; (ii) the applicable fee owed or, if applicable, an affidavit of intent to seek one of the permissible exemptions, as described above for that property by the purchaser; and (iii) the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from said fees. Upon receipt of the transfer fee or satisfactory evidence of exemption, the Town or its designee shall promptly thereafter issue a certificate indicating that the fee has been paid or that the transfer is exempt from the fee. The Norfolk Registrar of Deeds shall not record or register a deed unless the deed is accompanied by such certificate.

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And that the Town may prepare and issue an annual report that: (i) identifies fee receipts; (ii) quantifies affordable housing programs funded, including type and purpose; and (iii) evaluates the impact of said affordable housing programs, including but not limited to, to the extent reasonably possible and permitted by applicable law, the number and demographics of individuals and families served as well as measures of housing stability and wealth generation in the community.

And that this Act shall only become effective by a majority vote for a question on a Town election ballot.
or act on anything relative thereto.