



**TOWN OF BROOKLINE
MASSACHUSETTS**

**REPORTS OF SELECT BOARD
AND ADVISORY COMMITTEE**

on the

Articles in the Warrant

for the

ANNUAL TOWN MEETING

to be held virtually via Zoom

Register in advance for this meeting:

https://bostonu.zoom.us/meeting/register/tJUuuirqDsoGtWD39lQzYIVFFcL6le_17h8

Tuesday, June 23, 2020

at

7:00 P.M.

(Please retain this copy for use at the Town Meeting)

Town of Brookline

SELECT BOARD

Bernard W. Greene, Chair

Benjamin J. Franco

Nancy S. Heller

Heather A. Hamilton

Raul A. Fernandez

Melvin A. Kleckner, Town Administrator

"The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services or activities. Persons with disabilities who need auxiliary aids and services for effective communication in programs, services and activities of the Town of Brookline are invited to make their needs and preferences known to Lloyd Gellineau, Town of Brookline, 11 Pierce Street, Brookline, MA 02445, 730-2328 Voice, 730-2327 TDD, or email at lgellineau@brooklinema.gov."

MODERATOR

Edward N. Gadsby, Jr.

ADVISORY COMMITTEE

Michael Sandman, 115 Sewall Ave., No. 4, Chair, Street.....	232-7125
Carla Benka, Vice-Chair, 26 Circuit Road	277-6102
Benjamin Birnbaum, 15 Feneno Terrace,	276-5944
Harry Bohrs, 27 Toxeth Street.....	566-3556
Clifford M. Brown, 9 Hyslop Road	232-5626
John Doggett, 8 Penniman Place	566-5474
Dennis Doughty, 57 Perry Street.....	739-7266
Harry Friedman, 27 Clafin Road	BE2-0122
Janet Gelbart 216 St. Paul Street #601.....	566-5616
David-Marc Goldstein, 22 Osborne Road	232-1943
Neil Gordon, 87 Ivy Street.....	(508)265-1362
Susan Granoff, 52 Vernon Street #1	731-0822
Amy Hummel, 226 Clark Road	731-0549
Alisa G. Jonas, 333 Russett Road.....	469-3927
Janice Kahn, 63 Craftsland Road.....	739-0606
Steve Kanes, 89 Carlton Street	232-2202
Bobbie M. Knable, 1443 Beacon Street.....	731-2096
David Lescohier, 50 Winchester Street	383-5935
Carol Levin, 61 Blake Road.....	731-0166
Pamela Lodish, 195 Fisher Avenue	566-5533
Carlos Ridruejo, 16 Holland Road.....	901-5908
Lee L. Selwyn, 285 Reservoir Road	277-3388
Fred Levitan, 1731 Beacon Street #1202.....	734-1986
Donelle S. O’Neal, 68 Village Way.....	(857)243-3602
Kim Smith, 22 Brington Road	277-1606
Claire Stampfer,50 Sargent Crswy.	448-4201
Charles Swartz, 69 Centre Street	731-4399
Paul Warren, 71 Carlton Street	869-5430
Christine M. Westphal, 31 Hurd Road.....	738-7981
Neil Wishinsky, 20 Henry Street, No.2	739-0181
Lisa Portscher, Executive Assistant, Town Hall.....	730-2115

JUNE 23, 2020
ANNUAL TOWN MEETING
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3. Annual authorization of Compensating Balance Agreements. (Treasurer/Collector)
4. Report on the close-out of special appropriations / Bond Authorization Rescission. (Select Board)
5. Approval of unpaid bills of a prior fiscal year. (Select Board)
6. Acceptance of legislation to increase property tax exemptions. (Assessors)
7. Appropriation for High School Development Project (Select Board)
8. Annual (FY21) Appropriations Article. (Advisory Committee)
9. Newbury College - Fisher Hill Special Overlay District Zoning (“East Side” Zoning, for the proposed Welltower Development Project)(Newbury Zoning Committee)
10. Newbury College - Acceptance of Restrictive Covenant/Tax Certainty Agreement (Newbury Zoning Committee)
11. Newbury College - Authorize Select Board to enter into Memorandum of Agreement and attendant agreements (Newbury Zoning Committee)
12. Newbury College - Acceptance of an easement protecting trees along Fisher Avenue (Newbury Zoning Committee)
13. Newbury College - 125 Holland Road Mixed Income Overlay Zoning (Newbury Zoning Committee)
14. Newbury College Fisher Avenue and Hyslop Road Municipal Uses Overlay Zoning (Newbury Zoning Committee)
15. Newbury College - Authorization to acquire former Newbury College West Campus (Newbury Zoning Committee)

16. Authorization for the disposal and sale of the real property at 15-19 Oak Street. (Kahn, TMM15)
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22. Amend the Town's General By-Laws to regulate Short Term Rentals (Select Board)
23. Amend Article 10.2 of the Town's General By-Laws for enforcement of Short Term Rental Regulations (Select Board)
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31. Amend the Town's General by-laws to provide for gender neutral pronouns (Gordon, TMM1, *et al*)
32. Amend the Town's Zoning By-laws to provide for gender neutral pronouns (Gordon, TMM1, *et al*)
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37. Amend the Town's Zoning By-laws to require notice to renters (Zoorob, et.al)
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2020 ANNUAL TOWN MEETING WARRANT REPORT

The Select Board and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2020 Annual Town Meeting to be held on Tuesday, June 23, 2020 at 7:00 p.m.

Note: The following pages of this report are numbered consecutively under each article.



TOWN of BROOKLINE *Massachusetts*

SELECT BOARD

BERNARD W. GREENE, Chair
NANCY S. HELLER
HEATHER A. HAMILTON
RAUL A. FERNANDEZ
JOHN VANSKOYOC

333 WASHINGTON STREET
BROOKLINE, MASSACHUSETTS 02445
(617) 730-2200
FAX: (617) 730-2054

www.BrooklineMA.gov

MELVIN A. KLECKNER
Town Administrator

In Select Board
June 11, 2020

Vote and Notice of 2020 Annual Town Meeting

On motion it was,

Moved: That pursuant to Section 8(b) of Chapter 92 of the Acts of 2020 and the June 8, 2020 written request of Town Moderator Edward N. Gadsby, Jr., the 2020 Annual Town Meeting shall be held remotely by means of the Zoom video conferencing platform combined with telephone conference calling as requested by the Moderator.

Moved further: That pursuant to Section 8(c) of Chapter 92 of the Acts of 2020 the following notice is, in consultation with the Moderator, hereby approved and issued:

Notice of the 2020 Annual Town Meeting

- i. The 2020 Annual Town Meeting shall be held remotely by means of the Zoom video conferencing platform combined with telephone conference calling as requested by Town Moderator Edward N. Gadsby, Jr. in his June 8, 2020 request accompanying this notice.
- ii. The 2020 Annual Town Meeting shall be held remotely by such means on June 23, 2020 at 7:00 p.m.
- iii. The Moderator, Town Meeting Members, Town officials, and registered voters residing in the Town who have made prior arrangements to participate in the Meeting may access and witness the deliberations and actions taken at the Meeting by following the instructions provided to them in advance by the Town Clerk or the Moderator. Registered voters residing in the Town who wish to participate in the Meeting and have not made prior arrangements to access the Meeting must submit a request to the Town Clerk not later than 7:00 PM on June 21, 2020. All other interested members of the public may view the deliberations and actions taken at the Meeting via the live video streaming service provided by the Brookline Interactive Group at brooklineinteractive.org/live or on local access channels RCN Channel 15 or Comcast Channel 23.

This notice shall be filed and posted in accordance with the requirements of subsection (b) of Section 10A of Chapter 39 of the General Laws, distributed to each Town Meeting member, and publicly posted no later than June 13, 2020.

Aye: Chair Bernard Greene, Select Board member Nancy Heller, Select Board member Heather Hamilton, Select Board member Raul Fernandez, Select Board member John VanScoyoc

ATTEST

Melvin Kleckner
Town Administrator

Linda G. Goldberg
Assistant Town Clerk

BROOKLINE TOWN MODERATOR

REQUEST TO CALL A REMOTE ANNUAL TOWN MEETING

To the Brookline Select Board:

Pursuant to and as described in section 8(a) of Chapter 92 of the Acts of 2020 of The Commonwealth of Massachusetts, I hereby request that the Select Board call for the 2020 Annual Town Meeting to be held through remote participation. In connection with such request, I submit the following information:

1. I have determined that it is necessary and in the best interests of the Town, in view of the COVID-19 pandemic, that the 2020 Annual Town Meeting be held through remote participation of its Town Meeting Members and other participants rather than as an in-person meeting.
2. I have determined that the optimum remote participation platform to use for such meeting is a combination of the Zoom video system and telephone conference call. In addition, members of the general public who wish to view the proceedings may do so via the video streaming service provided by Brookline Interactive Group in real time at brooklineinteractive.org/live or on RCN Channel 15 or Comcast Channel 23.
3. I confirm that I have consulted with the chair of the Brookline Commission on Disability concerning possible accommodations for persons with disabilities who wish to participate in the meeting.
4. I hereby certify that I have tested the aforesaid video and telephone conferencing platform in a series of practice virtual Town Meeting sessions with Town Meeting Members and others, and that its use would satisfactorily enable the Meeting to be conducted in substantially the same manner as if the meeting occurred in person at the Brookline High School auditorium and in accordance with the operational and functional requirements of Chapter 92. Registered voters residing in the Town wishing to participate in the virtual Annual Town Meeting will be required to submit a request to participate to the Town Clerk not less than 48 hours in advance of the Meeting, and the Town Clerk will verify the requester's voter registration status and provide the requester with instructions for participating in the Meeting.

Respectfully submitted,

/s/ Edward N. Gadsby, Jr., Town Moderator

June 8, 2020

Linda G. Golburgh
Linda G. Golburgh
Assistant Town Clerk

ARTICLE 1, 2, 16, 17, 20-24 and 26-42

SELECT BOARD'S RECOMMENDATION

Due to the COVID-19 crisis, the Select Board voted to pursue a limited warrant for the Annual Town Meeting to meet the challenges of conducting an alternate form of Town Meeting and alleviate the number of public meetings and public hearings conducted during the state of emergency. The Select Board offers no recommendation under Articles. 1, 2, 16, 17, 20-24 and 26-42 and will formally consider a motion to defer these articles at their June 11th Meeting.

ARTICLE 1, 2, 7, 17, 20-24 and 26-42

SELECT BOARD'S RECOMMENDATION

At their meeting on June 16, 2020 the Select Board voted FAVORABLE ACTION on the following motion:

VOTED: To support the deferral of Warrant Articles 1, 2, 7, 17, 20-24, and 26-42 until the next scheduled town meeting, with the understanding that the Select Board intends to insert each of the deferred articles into the warrant of the next scheduled town meeting. Any article that was previously submitted by petition will be inserted into the warrant of the next scheduled town meeting without the requirement to re-submit a new petition.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Background:

When it became apparent in March that Brookline's Town Meeting could not safely be an in-person meeting due to the Covid-19 pandemic, the Moderator suggested that any of the 42 articles on the warrant for the 2020 Annual Town Meeting that were not time-sensitive be postponed until the next scheduled Town Meeting.

Discussion:

Articles 1,2,7, 17, 20-24 and 26-42 relate to matters that require action at some point by Town Meeting, but none require urgent action. Some concern was expressed that there would additional articles filed for November's Special Town Meeting, but the Committee agreed with Moderator's request, although it decided to move consideration of Article 16 (authorizing but not requiring the sales of the Oak St. townhouses) to the Annual Meeting.

Recommendation:

By a vote of 29-0, the Advisory Committee recommends FAVORABLE ACTION on the Select Board motion motion to defer Warrant Articles 1, 2, 7, 17, 20-24, and 26-42 until the next scheduled town meeting, with the understanding that the Select Board intends to insert each of the deferred articles into the warrant of the next scheduled town meeting.

ARTICLE 3

THIRD ARTICLE

Submitted by: Treasurer/Collector

To see if the Town will authorize the Town Treasurer, with the approval of the Select Board, to enter into Compensating Balance Agreement(s) for FY2021 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article authorizes the Town Treasurer to enter into Compensating Balance Agreements, which are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in return for which the bank agrees to perform certain services for the depositor. In order to incorporate such compensating balance agreements into the local budget process, the Commonwealth passed a law in 1986 mandating that all such arrangements be authorized by Town Meeting on an annual basis.

SELECT BOARD'S RECOMMENDATION

Compensating balances are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in return for which the bank agrees to perform certain services for the depositor. In order to incorporate such compensating balance agreements into the local budget process, the Commonwealth passed a law in 1986 mandating that all such arrangements be authorized by Town Meeting on an annual basis.

Funds have been included in the Treasurer's FY2021 budget to pay for these banking services directly. This authorization, however, will give the Treasurer the flexibility to enter into such agreements if it should be in the best interest of the Town.

The Select Board recommend FAVORABLE ACTION, by a vote of 5-0 taken March 10, 2020, on the following vote:

VOTED: That the Town authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2021 in accordance with General Laws Chapter 44, Section 53F.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

Favorable Action on Article 3 would authorize the Town Treasurer, with the approval of the Select Board, to enter into compensating balance agreements for FY2021 in accordance with Massachusetts General Laws Chapter 44, Section 53F. These agreements would allow the Town to maintain specified amounts of deposits, which may or may not be interest bearing, in exchange for the reduction or elimination of cash payments for bank services.

DISCUSSION:

The proposed Town budget generally assumes that the Town's available funds are invested in interest-bearing accounts, and that banking services are paid for in the ordinary course. This authorization gives the Treasurer the authority to negotiate a reduction or elimination of fees for services, in exchange for deposits or Town funds in non-interest-bearing accounts.

Compensating balance agreements add value when the savings in fees more than offsets the loss of interest income, or when services can be bargained for among competing banks. They are a valuable cash management and services procurement tool. Town Meeting has authorized these arrangements since the mid-1980s.

RECOMMENDATION:

By a vote of 28-0-0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

ARTICLE 4

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

This is an annual article required by Section 2.1.4 of the Town's By-Laws. Due to the COVID-19 response Town Departments were not asked to update the status of their special appropriations, but these were examined in the context of identifying budget capacity under article 8. There is no recommendation for action under this article and therefore the Select Board unanimously voted NO ACTION under article 4.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:

Section 2.1.4 of the Town's By-Laws requires that each Annual Town Meeting include a Warrant Article:

- showing the status of all special appropriations, and to ensure that surplus funds, if any, are managed in a timely fashion;
- identifying the unused portion of borrowing authorization that require rescission.

Under State statutes, surplus funds for revenue-financed capital projects are transferred to free cash at the end of the respective fiscal year. Surplus funds from bond-financed capital projects are also transferred to free-cash, unless they are appropriated under a Warrant Article by Town Meeting for a purpose similar to the original borrowing.

DISCUSSION:

This Warrant Article is basically informational as the Town's Comptroller has the statutory authority and power to close out the accounts without Town Meeting authorization. There are no accounts or bonded items with funds remaining that need to be closed out.

RECOMMENDATION:

By a vote of 26–0–0, the Advisory Committee recommends NO ACTION.

ARTICLE 5

FIFTH ARTICLE

Submitted by: Select Board

To see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of the previous years, which may be legally unenforceable due to the insufficiency of the appropriations therefore, and appropriate from available funds, a sum or sums of money therefore, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for every Town Meeting in case there are any unpaid bills from a prior fiscal year that are deemed to be legal obligations of the Town. Per Massachusetts General Law, unpaid bills from a prior fiscal year can only be paid from current year appropriations with the specific approval of Town Meeting.

SELECT BOARD'S RECOMMENDATION

State statutes provide that unpaid bills from previous fiscal years may not be paid from the current year's appropriations without the specific approval of Town Meeting. The School Department has an unpaid bill for \$51,250 from Simmons College for interns provided during FY2017 and FY2018. Signed contracts with Simmons College and the corresponding purchase orders were not generated in order to safeguard and secure funds for payment in each of the fiscal years. Turnover in the department exacerbated the issue and, Simmons College did not follow up on past due balances until the fall of 2019.

The Board has reviewed this bill with the department and deemed it to be a legal obligation of the Town. Therefore, the Select Board recommend FAVORABLE ACTION, by a unanimous vote, the following motion:

VOTED: VOTED: To authorize the payment of the following unpaid bill of a previous fiscal year from the FY2020 School Department budget:

Simmons College \$51,250

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation for Article 5 will be provided in the supplemental mailing.

XXX

ARTICLE 5

SCHOOL COMMITTEE REPORT AND RECOMMENATION

State statutes provide that unpaid bills from previous fiscal years may not be paid from the current year's appropriations without specific approval of Town Meeting. There are two unpaid bills from Simmons College totaling \$51,250. The Public Schools of Brookline has up to four interns from Simmons College annually. The interns are paid directly by Simmons College and the district pays Simmons based on received invoices. Signed contracts with Simmons College and the corresponding purchase orders were not generated in order to safeguard and secure funds for payment in each of the fiscal years of FY 2017 and FY 2018. The employees who were receiving the invoices moved from their roles beginning in FY 2017 for which proper transfer of institutional procedures did not occur. In addition, Simmons College did not follow up on past due balances until fall of 2019. They also could not produce properly executed contract agreements with the district by an authorized administrator. The School Committee has reviewed the bills and agrees to the obligation of the Town.

On June 4, 2020, the School Committee VOTED, by a vote of 6 in favor (Ms. Federspiel, Dr. Abramowitz, Ms. Charlupski, Ms. Ditkoff, Mr. Pearlman, and Ms. Scotto), 0 opposed, and 2 abstentions (Ms. Schreiner-Oldham and Ms. Monopoli), to recommend that Town Meeting vote favorably on Article 5.

ARTICLE 5

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Background

It is quite unusual for a department to seek payment for unpaid bills from a prior fiscal year. But during FY20, the Schools determined that \$51,250 was owed to Simmons University in connection with interns who were assigned to K-8 schools during FY17 and FY 18.

Discussion

The Public Schools of Brookline has up to four (4) interns from Simmons University annually. The interns are paid directly by Simmons College and the district pays Simmons based on received invoices. Due to procedural errors at both Simmnos and in the School Dept., signed contracts with Simmons College and the corresponding purchase orders were not generated in order to safeguard and secure funds for payment in each of the fiscal years of FY 17 and FY 18. The School employees who were receiving the invoices moved from their roles beginning in FY 17 for which proper transfer of institutional procedures did not occur.

In addition, Simmons did not follow up on past due balances until fall of 2019. They also could not produce properly executed contract agreements with the district by an authorized administrator.

Despite the absence of proper documentation, the interns did in fact provide services to Brookline schools. The Deputy Superintendent of Administration & Finance provide the details and explained how the procedural errors were being corrected.

Recommendation

The Advisory Committee voted 27-0-0 to recommend FAVORABLE ACTION to authorize payment of \$51,250 to Simmons University under Article 5.

ARTICLE 6

SIXTH ARTICLE

Submitted by: Board of Assessors

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2021 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION

This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, low-income elderly, the blind and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved by Town Meeting continually since FY1989.

SELECT BOARD’S RECOMMENDATION

This article provides for an increase in the property tax exemption amounts for certain classes of individuals, including surviving spouses, the elderly, the blind and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY1989. The estimated cost for FY2021 is approximately \$55,325 and is funded from the tax abatement overlay reserve account. The law allows the Town to increase the exemptions by up to 100% as indicated on the following schedule, which are recommended by the Board of Assessors:

Description	Ch.59, Sec.5 Clause	FY2019 #Granted	Basic Amount Exempted	Proposed Amount Exempted
Surviving Spouse	17D	3	\$175	\$350
Veteran (10% Disability)	22	47	\$400	\$800
Veteran (loss of one hand, foot or eye)	22A	0	\$750	\$1,500
Veteran (loss of two hands, feet or eyes)	22B	0	\$1,250	\$2,500
Veteran (special housing)	22C	0	\$1,500	\$3,000
Veteran (certain widows of soldiers)	22D	0	\$250	\$500
Veteran (100% disability, cannot work)	22E	12	\$1,000	\$2,000
Blind	37A	35	\$500	\$1,000
Elderly	41C	13	\$500	\$1,000

On March 10, 2020 a unanimous Select Board voted FAVORABLE ACTION on the following motion:

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2021 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:

Article 6 is the annual Warrant Article to increase state-mandated local property tax exemptions for certain classes of qualifying taxpayers, including surviving spouses, low-income elderly, blind persons, and disabled veterans.

The Advisory Committee recommends Favorable Action on Article 6.

BACKGROUND

The approved increases, which require annual reauthorizations, have been approved annually since FY 1989. These property tax increases, in their base amounts, are mandated by State law, which also provides for local optional increases in the mandated exemptions of up to 100 percent.

DISCUSSION:

The estimated annual cost of the increases property tax exemptions is about \$55,325, an amount that has been fairly stable. The increased exemptions are funded from the property tax abatement overlay reserve account. Thus, there is no impact on the Budget and no appropriation required by Town Meeting, only the granting of approval by the Board of Assessors. "Elderly" is defined as age 65 or older (Clause 41C) and as age 70 or older for elderly, surviving spouse, and surviving minor (Clause 17D). There were 110 exemptions granted in FY 2019.

Description	Ch.59, Sec.5 Clause	FY2019 #Granted	Basic Amount Exempted	Proposed Amount Exempted
Surviving Spouse	17D	3	\$175	\$350
Veteran (10% Disability)	22	47	\$400	\$800
Veteran (loss of one hand, foot, or eye)	22A	0	\$750	\$1,500
Veteran (loss of two hands, feet, or eyes)	22B	0	\$1,250	\$2,500
Veteran (special housing)	22C	0	\$1,500	\$3,000
Veteran (certain widows of soldiers)	22D	0	\$250	\$500
Veteran (100% disability, cannot work)	22E	12	\$1,000	\$2,000
Blind	37A	35	\$500	\$1,000
Elderly	41C	13	\$500	\$1,000

RECOMMENDATION:

By a vote of 28-0-0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

ARTICLE 7

SEVENTH ARTICLE

Submitted by: Select Board

To see if the Town will vote to appropriate, borrow or transfer from available funds, a sum of money, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Select Board and the School Committee to renovate and expand Brookline High School, including the acquisition and reconstruction of the property located at 111 Cypress Street and renovations or repairs to Brookline High School, the Evelyn Kirrane Aquatic Center, the Unified Arts Building, the 66 Tappan Street Gym, and Cypress Field.

PETITIONER'S ARTICLE DESCRIPTION

In May 2018, Brookline voters supported a debt exclusion override to fund the expansion and renovation of Brookline High School. Construction on the Brookline High School Expansion began on June 10, 2019. There are three major components to the project:

1. Build a new, state of the art Science, Technology, Engineering, and Math wing at the corner of Tappan and Greenough Streets, replacing the existing Roberts Wing
2. Build a new academic building at the corner of Cypress and Tappan Streets that will primarily serve 9th grade students while being fully integrated into the core of BHS campus
3. Renovate the third floor of the Schluntz Gym wing turning the existing and outdated science labs into modern, full sized classrooms

Other improvements and upgrades will take place at the Tappan Gym, Kirrane Pool and at Cypress Field.

This warrant article seeks Town vote to appropriate, borrow or transfer from available funds, up to \$32M additional increase to the previously approved budget of \$205.6M in order to complete all planned sub-projects of the Brookline High School Expansion Project.

The Town is using a CM at-risk method for the High School project. With this method the Town uses a two-phase selection process to contract with a construction manager that will also serve as the project's general contractor. The contract is a cost plus fixed fee contract with a guaranteed maximum price (GMP). CM at Risk provides design phase and preconstruction services and can provide early cost estimates and feedback to help in the design development process resulting in a more accurate cost model and the ability to

influence outcomes by addressing issues early. It is typical with CM @ Risk (CMR) delivery approach to incrementally start a project with early bid packages, in advance of final overall building designs and complete cost estimates/Guaranteed Maximum Price (GMP), in order to meet an earlier desired completion date for the project. A risk with this approach is starting the project, and then at a later date receiving a GMP for the overall project after majority of bid packages are procured. The Project Team had previously agreed to release early design packages for Enabling work, Demolition/Abatement, Curtainwall, Precast, Sitework, Structural Steel, Concrete, MBTA Enabling Phase, and misc. other early scopes, which were all bid and procured between January 2019 and Summer 2019. 100% final designs were completed for the new Cypress Building, STEM addition and the MBTA Station Improvements between July and August 2019 at which point the balance of bid packages could then be procured throughout Fall and early Winter 2019.

As of February 2020, the majority of bid results came in cumulatively over budget for STEM, Cypress and MBTA Station projects. Additionally, projected costs for Town-funded Force Accounts with the MBTA in order to fund selective shutdowns of the D-line service on certain weekend/weeknight diversions in order to complete construction activities in and around the active Station. Combined overruns from bidding to date and MBTA are estimated between \$27M-\$32M over the original 2017 budget of \$205.6M (approximately 15%).

The balance of Brookline High School Expansion sub-projects Tappan Renovations, 3rd Floor Renovations (Old Science Wing), Streetscape improvements and misc. Deferred Maintenance are on hold at the moment pending budget decisions. 60% estimates for these sub-projects are currently reflected within the above projections.

The entire project team have continuously looked for opportunities to reduce the projected overruns throughout each various design phases over the past couple of years (dual estimates performed each time), and even after bids have been received. Mitigating options and recommendations to the Town will be presented in various upcoming meetings.

SELECT BOARD'S RECOMMENDATION

A report and recommendation for Article 7 will be provided in the supplemental mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation for Article 7 will be provided in the supplemental mailing.

XXX

ARTICLE 7

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

Warrant Article 7 was submitted before the pandemic turned our lives upside down. We do not have enough budget information to present to Town Meeting, due to the Covid issues, uncertainty surrounding MBTA costs and surrounding the rate of escalation in costs that we had been experiencing before Covid.

The project staff has reviewed the project schedule going forward. If we complete the 90% drawings for Tappan gym, 3rd floor renovation, Tappan street scape, and deferred maintenance by the end of this summer, we will be able to bid those projects, contingent on funding, before the Fall 2020 Town Meeting. Given this timing, the Building Committee voted to recommend deferment of this article and the Select Board incorporated it into their overall motion for postponement of articles.

The Select Board offers no motion under Article 7.

ARTICLE 7

SCHOOL COMMITTEE REPORT AND RECOMMENDATION

On Thursday June 4, 2020 the Brookline School Committee voted to recommend postponing the consideration of Warrant Article #7 until the November 2020 Special Town Meeting.

The Brookline High School Expansion and Renovation project faces unprecedented budget challenges. Despite several rounds of value engineering of scope, externalities including complex and costly negotiations with the MBTA, a rapidly escalating construction market, and unforeseen site construction conditions are driving the need for additional funding to complete the project, projected to be in the \$32 million range (pre-COVID). However, there remain important unknown conditions, specifically the impact of COVID both as a direct cost and as a factor in the competitiveness of the construction market going forward. It would be advantageous to learn more about these unknowns in calculating the additional funds needed. In terms of timing, there are enough funds in the current budget to continue work through the summer, and the Building Department and Owner's Project Manager have assured us that there will not be meaningful delay in the 22 Tappan St. and STEM building projects by waiting until November to secure additional funds. At present there are projected to be sufficient savings due to conservative budgeting on interest rates such that the projected increases will be tax-neutral to the taxpayers. Therefore the School Committee concurs with the Brookline High School Building Advisory Committee's recommendation to defer action until information is known about these impacts.

ARTICLE 8

EIGHTH ARTICLE

Submitted by: Advisory Committee

To see if the Town will:

A.) Fiscal Year 2021 Budget

Appropriate the sums requested or proposed by the Select Board or by any other officer, board or committee, or any other sum or sums, for the fiscal year 2021 budget; without limiting the foregoing, appropriate the sums necessary for all town expenses, including the snow and ice budget, debt and interest, and operating expenses; fix the salaries of all elected officers as provided for in General Laws, Chapter 41, Section 108; authorize the leasing, leasing with an option to purchase or installment purchase of equipment; appropriate to a stabilization fund as provided for in General Laws Chapter 40, Section 5B; authorize the continuation of all revolving funds in accordance with General Laws, Chapter 44, Section 53E½ and all Enterprise Funds in accordance with General Laws, Chapter 44, Section 53F½; allocate available free cash; provide for a reserve fund; and establish the requirements for transfers among appropriations, interfund transfers, transfers for the purposes of salary adjustments, filling vacant positions and budgetary reporting.

B.) Fiscal Year 2021 Special Appropriations

Appropriate sums of money for the following special purposes:

1. Appropriate \$215,000, or any other sum, to be expended under the direction of the Building Commissioner with any necessary contracts over \$100,000 to be approved by the Select Board for repairs to garage floors.
2. Appropriate \$60,000, or any other sum, to be expended under the direction of the Building Commissioner for the rehabilitation of Town buildings.
3. Appropriate \$450,000, or any other sum, to be expended under the direction of the Fire Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for replacement of the fire station alerting system.
4. Appropriate \$900,000, or any other sum, to be expended under the direction of the Police Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.
5. Appropriate \$81,500, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Select Board, for traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Select Board on a semi-annual basis.

6. Appropriate \$125,000, or any other sum, with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for bicycle access improvements.
7. Appropriate \$322,080, or any other sum, with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for parking meter technology upgrades.
8. Appropriate \$2,649,916, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of streets.
9. Appropriate \$336,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of sidewalks.
10. Appropriate \$300,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for storm water improvements.
11. Appropriate \$2,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water system improvements.
12. Appropriate \$280,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water meter transmission unit (MTU) replacements.
13. Appropriate \$3,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for wastewater system improvements.
14. Appropriate \$260,000, or any other sum, to be expended under the direction of the Building Commissioner with any necessary contracts over \$100,000 to be approved by the Select Board for repairs to the elevator at the Netherland's Road facility.
15. Appropriate \$2,200,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements at Larz Anderson Park.
16. Appropriate \$1,150,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, for the renovation of Robinson Playground.
17. Appropriate \$160,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, for the design of the renovation of Schick Playground.
18. Appropriate \$310,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be

approved by the Select Board, for the renovation of playground equipment, fields, and fencing.

19. Appropriate \$165,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of Town and School grounds.
20. Appropriate \$235,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board and the Tree Planting Committee, for the removal and replacement of trees.
21. Appropriate \$70,000, or any other sum, to be expended under the direction of the Chief Procurement Officer for school furniture upgrades.
22. Appropriate \$150,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for HVAC equipment in Town and School facilities.
23. Appropriate \$100,000, or any other sum, to be expended under the direction of the Building Commissioner for the removal of underground tanks at Town and School facilities.
24. Appropriate \$80,000, or any other sum, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.
25. Appropriate \$200,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for elevator renovations in Town and School facilities.
26. Appropriate \$190,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for energy conservation projects in Town and School facilities.
27. Appropriate \$125,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades to energy management systems in Town and School facilities.
28. Appropriate \$3,100,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for roof repairs/replacements to Town and School facilities.
29. Appropriate \$300,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for fire alarm upgrades in Town and School facilities.

30. Appropriate \$160,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Board of Select Board and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.

31. Appropriate \$6,573,751, or any other sum, to be expended under the direction of the School Superintendent, with any necessary contracts to be approved by the Select Board and School Committee, for the expansion of classroom capacity in various schools.

C.) Funding

And determine whether such appropriations shall be raised by taxation, transferred from available funds, borrowed or provided by any combination of the foregoing, and authorize the leasing, leasing with an option to purchase, or the installment purchase of any equipment or any capital items; and authorize the Select Board, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants, gifts, reimbursements, and aid from both federal, state, and other sources and agencies for any of the purposes noted in this Article, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This is the annual appropriations article for FY2021. Included in this omnibus budget article are operating budgets, special appropriations, enterprise funds, revolving funds, and conditions of appropriation. This is the culmination of work that officially began with the publication of the Town Administrator's Financial Plan on February 18th. The proposed budget has since been reviewed by numerous sub-committees of the Advisory Committee, the full Advisory Committee, and the Select Board. The vote ultimately recommended to Town Meeting is offered by the Advisory Committee.

SELECT BOARD'S RECOMMENDATION

The Select Board would like to thank the Town Administrator and his staff, the Advisory Committee, the School Superintendent and his staff, and the School Committee for all of their efforts and collaboration toward dealing with this FY2021 budget,

ACTIONS SINCE THE RELEASE OF THE FINANCIAL PLAN

The Town Administrator submitted a revised FY 2021 Budget on June 2, 2020, addressing a \$12 million shortfall compared to the initial FY 2021 Budget submitted back on February 15. The Select Board convened a public hearing on the Budget and will meet to discuss it further next Thursday, June 11 with the newly constituted Board (following the Annual Town Election on June 9). It is expected that the Board will review the expenditure

reductions proposed to meet the budget shortfall and evaluate the merits of alternative budget cuts or use of the Town's reserves to avoid them. The Board will conclude its final budget recommendations at its meeting on June 16.

TOWN OF BROOKLINE'S FISCAL POLICIES
Adopted by the Board of Select Board on June 28, 2011

FREE CASH POLICIES

Free Cash shall not be used for Operating Budget purposes. It shall be utilized in the following manner and order:

1. Appropriated Budget Reserve – an amount equivalent to 0.25% of the prior year's net revenue shall be appropriated as part of the Town's 1% Appropriated Budget Reserve Fund, as allowed for under MGL Chapter 40, Section 6 and as described in the Town's Reserve Policies.
2. Unreserved Fund Balance / Stabilization Fund – Free Cash shall be used to maintain an Unreserved Fund Balance plus Stabilization Fund in an amount equivalent to no less than 10% of revenue, as defined in the Town's Audited Financial Statements, with a goal of 12.5%, as described in the Town's Reserve Policies. If the Stabilization Fund were drawn down in the immediate prior fiscal year, then an allocation shall be made to the Fund in an amount at least equivalent to the draw down of the immediate prior fiscal year.
3. Liability / Catastrophe Fund – to the extent necessary, Free Cash shall be used to reach the funding target of the Town's Liability / Catastrophe Fund, as described in the Town's Reserve Policies.
4. Capital Improvement Program (CIP) – remaining Free Cash shall be dedicated to the CIP so that total CIP funding as a percent of the prior year's net revenue is not less than 7.5%, to the extent made possible by available levels of Free Cash.
5. Affordable Housing Trust Fund (AHTF) – in order to support the Town's efforts toward creating and maintaining affordable housing, 15% of remaining Free Cash shall be appropriated into the AHTF if the unreserved fund balance in the AHTF, as calculated in the Town's financial system, is less than \$5 million.
6. Special Use – remaining Free Cash may be used to augment the trust funds related to fringe benefits, unfunded liabilities related to employee benefits, including pensions and Other Post-Employment Benefits (OPEB's), and other one-time uses, including additional funding for the CIP and AHTF.

RESERVE POLICIES

The establishment and maintenance of adequate financial reserves provide the Town of Brookline with financial flexibility and security and is recognized as an important factor considered by bond rating agencies, the underwriting community and other stakeholders. The Town shall maintain the following general, special, and strategic reserve funds:

- **Budget Reserve** – to respond to extraordinary and unforeseen financial obligations, an annual budget reserve shall be established under the provisions of MGL Chapter 40, Section 6. The funding level shall be an amount equivalent to 1% of the prior year’s net revenue, maintained in the manner set out below. Any unexpended balance at the end of the fiscal year must go toward the calculation of free cash; no fund balance is maintained.
 - **Funding from Property Tax Levy** – an amount equivalent to 0.75% of the prior year’s net revenue shall be allocated from the Property Tax levy to the Appropriated Budget Reserve.
 - **Funding from Free Cash** – an amount equivalent to 0.25% of the prior year’s net revenue shall be allocated from Free Cash, per the Town’s Free Cash Policies, to the Appropriated Budget Reserve.

- **Unreserved Fund Balance / Stabilization Fund** – the Town shall maintain an Unreserved Fund Balance plus Stabilization Fund in an amount equivalent to no less than 10% of revenue, as defined in the Town’s Audited Financial Statements, with a goal of 12.5%. If the balance falls below 10% at the end of the fiscal year, then Free Cash shall be used to bring the amount up to 10%, as described in the Free Cash Policy, as part of the ensuing fiscal year’s budget. The Stabilization Fund shall be established under the provisions of MGL Chapter 40, Section 5B.
 1. The Stabilization Fund may only be used under the following circumstances:
 - a. to fund capital projects, on a pay-as-you-go basis, when available Free Cash drops below \$2 million in any year; and/or
 - b. to support the operating budget when Net Revenue, as defined in the CIP policies, increases less than 3% from the prior fiscal year.

 2. The level of use of the Stabilization Fund shall be limited to the following:
 - a. when funding capital projects, on a pay-as-you-go basis under #1a. above, no more than \$1 million may be drawn down from the fund in any fiscal year. The maximum draw down over any three year period shall not exceed \$2.5 million.
 - b. when supporting the operating budget under #1b. above, the amount drawn down from the fund shall be equal to the amount necessary to bring

the year-over-year increase in the Town's prior year net revenue to 3%, or \$1 million, whichever is less. The maximum draw down over any three year period shall not exceed \$2.5 million.

3. In order to replenish the Stabilization Fund if used, in the year immediately following any draw down, an amount at least equivalent to the draw down shall be deposited into the fund. Said funding shall come from Free Cash.
- **Liability / Catastrophe Fund** – established by Chapter 66 of the Acts of 1998, and amended by Chapter 137 of the Acts of 2001, this fund shall be maintained in order to protect the community against major facility disaster and/or a substantial negative financial impact of litigation. The uses of and procedures for accessing the fund are described in the above referenced special act. The target fund balance is 1% of the prior year's net revenue and funding shall come from available Free Cash and other one-time revenues.
 - **Overlay Reserve** – established per the requirements of MGL Chapter 59, Section 25, the Overlay is used as a reserve, under the direction of the Board of Assessors, to fund property tax exemptions and abatements resulting from adjustments in valuation. The Board of Select Board shall, at the conclusion of each fiscal year, require the Board of Assessors to submit an update of the Overlay reserve for each fiscal year, including, but not limited to, the current balances, amounts of potential abatements, and any transfers between accounts. If the balance of any fiscal year overlay exceeds the amount of potential abatements, the Board of Select Board may request the Board of Assessors to declare those balances surplus, for use in the Town's Capital Improvement Plan (CIP) or for any other one-time expense.

CAPITAL IMPROVEMENT PROGRAM (CIP) POLICIES

Planning, budgeting and financing for the replacement, repair and acquisition of capital assets is a critical component of the Town of Brookline's financial system. Prudent planning and funding of its capital infrastructure ensures that the Town can continue to provide quality public services in a financially sound manner. The development of a Capital Improvement Program (CIP) is the mechanism that the Town uses to identify projects, prioritize funding and create a long-term financial plan that can be achieved within the limitations of the Town's budget.

Definition of a CIP Project

A capital improvement project is any project that improves or adds to the Town's infrastructure, has a substantial useful life, and costs \$25,000 or more, regardless of funding source. Examples of capital projects include the following:

- . Construction of new buildings
- . Major renovation of or additions to existing buildings
- . Land acquisition or major land improvements
- . Street reconstruction and resurfacing
- . Sanitary sewer and storm drain construction and rehabilitation
- . Water system construction and rehabilitation
- . Major equipment acquisition and refurbishment
- . Planning, feasibility studies, and design for potential capital projects

Evaluation of CIP Projects

The capital improvement program shall include those projects that will preserve and provide, in the most efficient manner, the infrastructure necessary to achieve the highest level of public services and quality of life possible within the available financial resources.

Only those projects that have gone through the CIP review process shall be included in the CIP. The CIP shall be developed in concert with the operating budget and shall be in conformance with the Board's CIP financing policy. No project, regardless of the funding source, shall be included in the CIP unless it meets an identified capital need of the Town and is in conformance with this policy.

Capital improvement projects shall be thoroughly evaluated and prioritized using the criteria set forth below. Priority will be given to projects that preserve essential infrastructure. Expansion of the capital plan (buildings, facilities, and equipment) must be necessary to meet a critical service. Consideration shall be given to the distributional effects of a project and the qualitative impact on services, as well as the level of disruption and inconvenience.

The evaluation criteria shall include the following:

- Eliminates a proven or obvious hazard to public health and safety
- Required by legislation or action of other governmental jurisdictions
- Supports adopted plans, goals, objectives, and policies
- Reduces or stabilizes operating costs
- Prolongs the functional life of a capital asset of the Town by five years or more
- Replaces a clearly obsolete facility or maintains and makes better use of an existing facility
- Prevents a substantial reduction in an existing standard of service
- Directly benefits the Town's economic base by increasing property values
- Provides new programs having social, cultural, historic, environmental, economic, or aesthetic value
- Utilizes outside financing sources such as grants

CIP Financing Policies

An important commitment is to providing the funds necessary to fully address the Town's capital improvement needs in a fiscally prudent manner. It is recognized that a balance must

be maintained between operating and capital budgets so as to meet the needs of both to the maximum extent possible.

For the purposes of these policies, the following definitions apply:

- Net Operating Revenue - Gross revenues, less net debt exclusion funds, enterprise (self-supporting) operations funds, free cash, grants, transfers from other non-recurring non-general funds, and non-appropriated costs.
- Net Direct Debt (and Debt Service) - Gross costs from local debt, less Prop 2 1/2 debt exclusion amounts and amounts from enterprise operations.
- Net Tax-Financed CIP - Gross amount of appropriations for capital improvements from current revenues, less amounts for enterprise operations, grants, free cash, transfers, and non-recurring special revenue funds.

The capital improvements program shall be prepared and financed in accordance with the following policies:

OUTSIDE FUNDING

State and/or federal grant funding shall be pursued and used to finance the capital budget wherever possible.

ENTERPRISE OPERATIONS - SELF SUPPORTING

Capital projects for enterprise operations shall be financed from enterprise revenues solely.

CIP BUDGET ALLOCATIONS - 6% OF NET REVENUES

Total net direct debt service and net tax-financed CIP shall be maintained at a level equivalent to 6% of prior year net operating revenues.

- TAX FINANCED ALLOCATION - 1.5% OF NET REVENUES
Net tax-financed capital expenditures shall be maintained at a target level equivalent to 1.5% of prior year net operating revenues.
- DEBT-FINANCED ALLOCATION - 4.5% OF NET REVENUES
Net direct debt service shall be maintained at a target equivalent to 4.5% of prior year net operating revenues.

DEBT MANAGEMENT POLICIES

Debt financing of capital projects shall be utilized in accordance with the following policies:

- Debt financing for projects supported by General Fund revenue shall be reserved for capital projects and expenditures which either cost in excess of \$250,000 or have an anticipated life span of five years or more, or are expected to prolong the useful life of a capital asset by five years or more. For projects supported by Enterprise Fund revenue, debt financing shall be reserved for capital projects and expenditures that cost in excess of

\$100,000.

- Bond maturities shall not exceed the anticipated useful life of the capital project being financed. Except for major buildings and water and sewer projects, bond maturities shall be limited to no more than ten years.
- Bond maturities shall be maintained so that at least 60% of the outstanding net direct debt (principal) shall mature within 10 years.
- Total outstanding general obligation debt shall not exceed 2.5% of the total assessed value of property.
- Total outstanding general obligation debt per capita shall not exceed \$2,385, which reflects \$2,000 inflated annually since July 1, 2004. This amount shall continue to be adjusted annually by the consumer price index (CPI) for all urban consumers (northeast region all items).
- Total outstanding general obligation debt per capita shall not exceed 6% of per capita income, as defined by the Census Bureau of the U.S. Department of Commerce.

FREE CASH

After using free cash in accordance with the Town's free cash policy, available free cash shall be used to supplement the CIP so that total CIP funding as a percent of the prior year's net revenue is not less than 7.5%, to the extent made possible by levels of available free cash.

UNFUNDED LIABILITIES POLICY

Defined as “the actuarial calculation of the value of future benefits payable less the net assets of the fund at a given balance date”, unfunded liabilities represent a significant financial obligation for all levels of government across the country. In Brookline and other Massachusetts municipalities, the two primary unfunded liabilities are for Pensions and Other Post-Employment Benefits (OPEB's).

- Pensions – the Contributory Retirement System is a defined benefit program that is governed by Massachusetts General Laws, Ch. 32 and is regulated by the Public Employee Retirement Administration Commission (PERAC), a State entity responsible for the oversight, guidance, monitoring, and regulation of Massachusetts' 105 public pension systems. Funding for this system covers the costs of employees who are part of the Town's retirement system, which does not include teachers, as their pensions are funded by the State.

In accordance with State law, PERAC regulations and government accounting standards, the Town contracts for an actuarial valuation of the retirement system to quantify the unfunded liability on a biennial basis. Under current State law, the Town then establishes a funding schedule to fully-fund this liability by 2040. The Town shall continue to fund this liability in the most fiscally prudent manner, recognizing the fact that the adoption of a funding schedule is, by law, the responsibility of the local retirement board.

- OPEB's – these consist primarily of the costs associated with providing health insurance for retirees and their spouses. The Government Accounting Standards Board (GASB) issued Statements No. 43 and No. 45 in 2004 to address the OPEB issue. GASB 43 required the accrual of liabilities of OPEB generally over the working career of plan members rather than the recognition of pay-as-you-go contributions, while GASB 45 required the accrual of the OPEB expense over the same period of time. The reporting requirements of GASB 43 and 45 include disclosures and schedules providing actuarially determined values related to the funded status of the OPEB. This requires that the accrued liabilities be determined by a qualified actuary using acceptable actuarial methods.

While there is currently no legal requirement to fund OPEB's, the Town shall continue to follow its plan to move toward fully-funding the Annual Required Contribution (ARC), ultimately developing a funding schedule that fully-funds OPEB's according to a schedule similar to the pension funding schedule. This plan should continue to include annual increases in the portion of the appropriation supported by General Fund revenues. It should also include using the "run-off" from the pension system once that system is fully-funded. In order to determine the funding schedule, the Town shall continue its current practice of having an independent actuary prepare biennial valuations, which is in compliance with GASB's requirement.



June 1, 2020

The Honorable Select Board and Members of the Advisory Committee
Town of Brookline
Brookline, Massachusetts 02445

Dear Members of the Board and Advisory Committee:

This Supplemental Budget Message addresses proposed modifications to the Fiscal Year (FY) 2021 Budget in response to a projected decline in revenue since the initial Budget was submitted on February 15.

INTRODUCTION: Several weeks after the initial FY 2021 Budget was submitted on February 15, the COVID-19 pandemic struck the United States and caused a rapid and comprehensive economic breakdown. At this time, we project that these economic conditions will have the effect of reducing the Town's FY 2021 revenue by \$12,159,415. This revenue loss is 3.7% lower than the initial FY 2021 Budget submission. To meet this reduction in revenue, less money is allocated to the School department and Municipal department's budgets. We have proposed deeper reductions in the operating funding normally dedicated to the Capital budget to mitigate the undesirable impact of reducing staffing and services, especially during the pandemic. At this time, I am not recommending the use of one-time revenue from the Town's reserves to fill the remaining FY 2021 budget hole. I am concerned that the budgetary impacts from the COVID-19 crisis will carry over into Fiscal Year 2022 and possibly longer. If the Town uses its savings account or reduces its payments on long-term obligations to meet operational expenses in FY 2021, those options will not be available in FY 2022 when the Town's Budget may need it more. Until we know more about the economic recovery, we cannot exhaust our options in Year 1. More information about the Town's reserves and long-term obligations are included later in this Supplemental Budget Message.

The challenges created by this sudden economic crisis require more time to plan and to generate publicly acceptable solutions. A detailed projection of FY 2021 revenue loss, and the possibility that federal aid may be available to replace it, are uncertain at this time. This revised Budget meets the requirement for a balanced budget in time for the Annual Town Meeting and commencement of the new fiscal year on July 1, 2020. However, it is my strong recommendation that the Town consider this an interim budget and plan to adopt a final, more comprehensive budget at the Special Town Meeting in November of 2020. While modifying a budget after the fiscal year has begun is a challenge, there will be much more data and

information available to the Advisory Committee over the summer and into the fall to conduct its review and to provide the Town with the necessary space for public policy debate about balancing the Town's priorities and values.

The following table breaks down the proposed FY 2021 Budget of \$317,669,708, including comparisons to the prior fiscal year and the initial FY 2021 Budget submission.

Table 1 Comparison to FY2020 Budget

<u>REVENUE SOURCE</u>	FY2020	FY2021	<u>BUDGET INCREASE</u>	
	<u>BUDGET</u>	<u>BUDGET</u>	<u>\$\$</u>	<u>%</u>
Property Taxes	238,487,745	254,898,615	16,410,870	6.9%
Local Receipts	31,120,219	27,051,609	(4,068,610)	-13.1%
State Aid	22,386,947	19,455,995	(2,930,952)	-13.1%
Free Cash	9,081,257	11,791,952	2,710,695	29.8%
Other Available Funds	3,349,771	4,471,538	1,121,767	33.5%
General Fund Revenues	304,425,937	317,669,708	13,243,771	4.4%
<u>EXPENDITURE CATEGORY</u>		<u>Recommended</u>		
Town Departments	78,990,815	78,338,691	(652,124)	-0.8%
Schools	117,385,105	118,998,990	1,613,885	1.4%
Benefits	66,438,626	68,648,264	2,209,638	3.3%
Non-Departmental	4,108,594	7,283,960	3,175,366	77.3%
Debt Service	18,828,262	25,204,624	6,376,362	33.9%
Special Appropriations (CIP)	9,949,094	10,458,250	509,156	5.1%
Non-Appropriated	8,725,441	8,736,930	11,489	0.1%
Total expenditures	304,425,937	317,669,708	13,243,771	4.4%

Table 2 Comparison to Initial FY 2021 Budget

<u>REVENUE SOURCE</u>	FY2021	FY2021	<u>FY21 Feb vs</u>	
	<u>FEBRUARY</u>	<u>REVISED</u>	<u>FY21 Feb vs</u>	
	<u>BUDGET</u>	<u>BUDGET</u>	<u>FY21 Revised</u>	
Property Taxes	254,898,615	254,898,615	0	0.0%
Local Receipts	35,874,799	27,051,609	(8,823,190)	-24.6%
State Aid	22,792,220	19,455,995	(3,336,225)	-14.6%
Free Cash	11,791,952	11,791,952	0	0.0%
Other Available Funds	4,471,538	4,471,538	0	0.0%
General Fund Revenues	329,829,123	317,669,708	(12,159,415)	-3.7%
<u>EXPENDITURE CATEGORY</u>		<u>Recommended</u>	<u>Reduction</u>	
Town Departments	81,681,032	78,338,691	(3,342,341)	-4.1%
Schools	123,361,137	118,998,990	(4,362,148)	-3.5%
Benefits	68,898,264	68,648,264	(250,000)	-0.4%
Non-Departmental	7,430,475	7,283,960	(146,515)	-2.0%
Debt Service	25,763,034	25,204,624	(558,410)	-2.2%
Special Appropriations (CIP)	13,958,250	10,458,250	(3,500,000)	-25.1%
Non-Appropriated	8,736,930	8,736,930	0	0.0%
Total expenditures	329,829,123	317,669,708	(12,159,415)	-3.7%

REVENUES: In some ways the Town of Brookline is insulated from major swings of revenue due to economic cycles. Over 70% of the Town's revenues are made up from property taxes. Property taxes are a stable source of revenue whose growth is limited, but fixed, at 2.5% per year (Proposition 2½). Its collection is highly reliable given a municipality's ability to place liens on property and the large percentage of taxes paid automatically through mortgage companies. The revenue loss for FY 2021 created by the COVID-19 crisis are felt in the State Aid and Local Receipts categories.

It is projected that general aid to the Town from the Commonwealth of Massachusetts will decrease in FY 2021 as a result of COVID-19 impacts to the state economy and revenues. Compared to the amounts projected in the initial FY 2021 Budget, we project that State Aid will be \$3,336,225 less, representing a loss of nearly 15%. The Town's Local Receipts are directly impacted by economic performance, including excise taxes levied upon motor vehicles, hotel stays, food and drink, and cannabis sales. Altogether, it is projected that revenue from Local Receipts will be reduced by \$8,823,190, or 25% less than the initial FY 2021 Budget.

Table 3 Local Receipts Compared to Initial FY 21 Budget

REVENUE SOURCE	FY2020	FY2021	FY2021		% NOTE
	BUDGET	BUDGET	REVISED	VARIANCE	
Motor Vehicle Excise	6,142,644	6,265,497	5,952,222	(313,275)	-5%
Local Option Taxes	3,460,310	5,243,495	2,871,748	(2,371,748)	-45% Hotel, Meals, Marijuana sales
Licenses and Permits	1,170,775	1,180,775	952,259	(228,516)	-19% Alcohol, Common Vic, Fire Prevention
Parking and Court Fines	3,300,000	3,300,000	1,650,000	(1,650,000)	-50%
General Government	4,564,268	5,317,930	5,052,033	(265,896)	-5% Building permits, HCA found here
Interest Income	974,977	999,351	749,513	(249,838)	-25%
In Lieu of Tax Payments	1,010,509	1,530,719	1,377,647	(153,072)	-10%
Refuse Fees	2,850,000	3,598,654	3,224,327	(374,327)	-10% Assumes mid-year implementation
Departmental and Other	7,646,736	8,438,378	5,221,860	(3,216,518)	-38% Parking meters and other fees
Total	31,120,219	35,874,799	27,051,609	(8,823,190)	-25%

The initial FY 2021 Budget proposed an increase in \$2 million in non-property tax revenue in accordance with a 3-Year Override plan adopted in FY 2019. This commitment was realized through increases in parking meter rates, solid waste fees and enhanced cannabis sales. The economic impacts of COVID-19 have prompted a policy review of these fee increases, especially given the loss of jobs and other financial hardships being experienced by residents and businesses in Brookline. Based on recent policy discussions of the Select Board, I have included a \$.25 increase in the parking meter rate and a modified trash fee increase to occur in January of 2021 in the projection of Local Receipts. The circumstances and timing of these fee increases will generate less revenue than initially proposed back in February, as will revenue from the sale of cannabis.

Not included in this revised FY 2021 Budget is any revenue from the federal government. The Commonwealth of Massachusetts has allocated \$500 million of its federal CARES Act grant to cities and towns to meet direct, unbudgeted expenses related to COVID-19 for FY 2020 and FY 2021. For Brookline, this two-year allocation is \$5.2 million. At this time, these funds may not be used for general revenue replacement. As a result, neither this revenue nor the Town's direct

COVID-19 related expenses are being accounted for within the general budget. The Town's annual receipt of \$1.35 million in federal Community Development Block Grant (CDBG) funds is also excluded from this budget. The Town also received a supplemental allocation of \$807,337 in CDBG funds in April. The Select Board has allocated CDBG funds to the Brookline Safety Net Fund, the Brookline Food Pantry, to Family Aid Boston and to support a grant program for eligible small to medium sized businesses. In order to continue to remain eligible for future federal FEMA and/or CARES funding, it is recommended that the Town not budget for direct COVID-19 expenses.

EXPENDITURES: The loss of \$12 million in revenue requires a corresponding reduction in expenses in order to meet a state mandated balanced budget. State law requires Town Meeting to appropriate the total amount of the School department's budget, but leaves to the elected school committee the discretion to expend these funds. As a result, my proposed FY 2021 Budget provides a "bottom line" allocation to the School department through a formula facilitated by the Town School Partnership Committee. This formula has come under criticism recently, including in the Brookline Financial Advisory Committee (BFAC) recent report, as being overly complicated and inaccurately portraying a 50/50 revenue splitting of revenues between the School department and Municipal departments. The initial budget allocation proposed back on February 15, 2020 using the Town School Partnership formula resulted in a 37% allocation of net revenue to the School department and 25% to municipal departments. These same relative percentages have been used to allocate reduced revenue for this revised budget allocation.

The bottom line budget allocation to the School department is \$118,998,990, representing a 3.5% reduction in the initial budget allocation from February. Municipal departments are proposed to be funded at \$78,338,691, or 4.1% less than the prior allocation. As previously noted, my Budget submission includes specific recommendations on municipal departmental expenditures but only a bottom line amount for the School department. The following explains the specific reductions in municipal department budgets compared to the funding levels proposed back in February.

We had limited time and ability to evaluate the need for \$3.3 million in reductions to municipal departments given the focus on the public response to the COVID-19 pandemic. In order to create multiple options, we asked each department head to complete an exercise that identified and prioritized up to a 10% cut in their budget. My stated philosophy and goal for this interim budget is to reduce as much as possible the cut in permanent staffing levels and the loss of direct programs and services. The COVID-19 world requires local government to give more focused attention and creativity to solutions. This requires staffing and funding for direct services. In addition, I am committed to reducing staff by avoiding layoffs of incumbent personnel as much as possible. As a result, I used the following strategies when recommending budget reductions;

- Take advantage of budget savings for programs and facilities temporarily curtailed during the COVID-19 emergency
- Eliminate program and service enhancements added to the initial FY 2021 Budget
- Eliminate/defer funding for vacant positions
- Reduce office supplies, equipment replacement and other low impact accounts.

Table 4 Recommended Municipal Departments Reductions

	FY-21 BUDGET*	REDUCTION	% CUT OF BUDGET
* utilities not included			
DEPARTMENTAL EXPENDITURES			
1. Select Board	829,576	37,514	4.5%
2. Human Resources Department	638,785	44,300	6.9%
3. Information Technology	2,124,234	43,975	2.1%
4. Diversity, Inclusion, and Cmty Relations	284,825	23,750	8.3%
5. Finance Department	3,472,971	188,160	6.1%
6. Legal Services	1,163,412	106,140	9.1%
7. Advisory Committee	28,520		0.0%
8. Town Clerk	759,724	9,450	1.2%
9. Planning & Community Development	1,250,449	125,423	10.0%
10. Police	17,714,676	506,412	2.8%
11. Fire	16,040,399	424,894	2.6%
12. Building	6,278,280	261,980	5.6%
13. Public Works	15,637,441	676,647	4.3%
14. Library	4,085,311	388,535	9.5%
15. Health	1,549,218	30,000	1.9%
16. Veterans	346,687	34,600	10.0%
17. Council on Aging	940,374	94,037	10.0%
18. Recreation	976,207	110,934	11.4%
DEPARTMENT-WIDE			
Leased Computer Savings		20,000	
Utility Savings (recent gasoline/diesel bids)		86,175	
Group Health Reduced enrollment (vacant position reductions)		129,415	
TOWN TOTAL		\$3,342,341	

The reductions and resulting impacts of operating budget cuts would have been greater if not for my recommendation to substantially reduce capital expenditures in FY 2021. I propose a reduction in \$3.5 million of capital expenditures from general fund revenue. While the remaining allocation of \$12,735,013 from general fund revenue does not meet the Town's financial policy requiring general revenue to fund at least 6% of prior year net revenue for capital expenditures, the total amount of capital funding (including Free Cash) meets the target 7.5% of net revenue policy.

The decision to reduce capital expenditures was not taken lightly. The Town is in the midst of a classroom space deficiency that has required significant allocation of capital dollars to expand permanent space and to lease temporary private space in hopes of avoiding more permanent building expansion down the road. The Town has also taken on an aggressive plan of renovating all of its parks and open spaces to become more inclusive and to reduce costly maintenance expenses. Unfortunately, I have proposed substantial reductions or deferrals in both programs for FY 2021. I recommend the continued funding of capital repair and replacement of the

Town's basic infrastructure; roads and sidewalks, traffic calming and bicycle/pedestrian safety, trees, roofs and other critical building systems. I also recommend continued investment into energy management or sustainable energy projects that will create a positive return on investment through reduced energy costs. Finally, I have recommended funding of any project that will enhance the public health and safety of Brookline.

Table 5 Recommended CIP Reductions

Description	Revenue or Bond Financed	Amount	Reduction	Note
Garage Floor Sealants	R	\$ 215,000	\$ (215,000)	
Town Rehab/Upgrades	R	\$ 60,000	\$ -	
Fire Station Alerting System	R	\$ 450,000	\$ -	
Radio Infrastructure	R	\$ 900,000	\$ -	5 year lease finance agreement has been executed
Traffic Calming	R	\$ 81,500	\$ 81,500	Alternate funding source- Parking Meter Fund
Bicycle Access Improvements	R	\$ 125,000		
Parking Meter Upgrade	R	\$ 322,000	\$ (106,080)	Provides operating relief
Street Rehab	R	\$ 2,649,916	\$ (370,420)	Alternate funding source - Prior year CIP accts
Sidewalk Repair	R	\$ 336,000		
Larz Anderson Park	B	\$ 2,200,000		
Robinson Playground	B	\$ 1,150,000	\$ (1,150,000)	defer to November
Schick Park	R	\$ 160,000	\$ (160,000)	
Parks and Playgrounds	R	\$ 310,000		
Town/School Grounds Rehab	R	\$ 165,000	\$ (10,000)	
Tree Removal and Replacement	R	\$ 235,000		
School Furniture	R	\$ 70,000	\$ (70,000)	
HVAC Equipmant	R	\$ 150,000	\$ (50,000)	
Oil Tank Removal	R	\$ 100,000	\$ (100,000)	
Town/School Building ADA reno	R	\$ 80,000		
Town/School Elevator Reno	R	\$ 200,000		
Town/School Building Energy Cons.	R	\$ 190,000		
Town/School Building Energy Mgmt	R	\$ 125,000		
Town/School Building Roof Repair	B	\$ 3,100,000		
Fire Alarm Upgrades	R	\$ 300,000		
Town/School Building Security Sys.	R	\$ 160,000		
Classroom Capacity	R	\$ 6,573,751	\$ (2,500,000)	
Revenue Financed reductions			\$ (3,500,000)	
Projects highlighted in blue are in line with the AC Capital Subcommittee recommendation				

RESERVES AND LONG-TERM OBLIGATIONS: In addition to being a local government, the Town is a corporation with over \$300 million in operating expenses and \$450 million in capital assets and liabilities. The Town frequently accesses the capital bond markets to issue tax-exempt debt necessary to finance major school projects and other long term assets. In this highly regulated environment, the Town of Brookline must have financial reserves in amounts that are acceptable to bond rating agencies and investors. The Town currently maintains the Aaa (triple A) bond rating, securing the lowest possible interest rate on borrowing and creating indirect competitive advantages in its contracting, employment and other business arrangements. The recent BFAC report highlighted the importance of this bond rating, and cautioned that the Town was at risk of losing it unless it shored up its reserves. Specifically, it recommended that \$2 million of the Town's prior year fund balance should be earmarked to the Stabilization Fund (the Town's savings account) to supplement the current \$6.7 million balance in the Fund.

I urge caution in allocating one-time savings to meet ongoing operational expenses. I am particularly worried that FY 2022 may be worse for the Town's budget than the current shortfall we face. At a minimum, I recommend that decisions to allocate funds from the Town's general reserves be deferred until the fall, when more information on the Town's revenues and possible federal funding will be available. At that time, the use of reserves to fund operating expenses can be more effectively evaluated and balanced with the impacts of expense reductions. With respect to BFAC's recommendation to allocate \$2 million in fund balance to the Stabilization Fund, I recommend that only \$1 million of this amount be appropriated to the Fund. The remaining \$1 million should be allocated to the annual Reserve Fund that covers emergency or unforeseen expenses that the regular budget cannot support. I understand that future removal of funds from the Stabilization Fund requires a two-thirds majority of vote by Town Meeting. If there is another legal mechanism to protect the funds while making them available for future Town Meeting appropriation in the fall, I would be supportive of that alternative.

The other side of the coin is the Town's unfunded liabilities. State and local governments in Massachusetts are not part of the federal social security system. The government employer and its employees must fund the costs of a defined pension benefit for retirees and their survivors. For decades, state and local governments funded their long term retiree obligations on a "pay as you go" basis. With national and state efforts to enact public pension reform in place, all municipalities are now required to identify the long term actuarial obligation of their pension system and fund an annual plan to retire said obligation. Currently, the Town's funding plan requires an average annual increase of about 7.85% in order to meet its unfunded liability by 2030. Similarly, the Town has an unfunded liability to provide health insurance coverage for its retirees and their survivors. Referred to as Other Post-Employment Benefits (OPEB), the Town does not have the same legal responsibility for funding this obligation at this time as it does with the pension liability. Nonetheless, with an unfunded OPEB liability of \$247.5 million, the Town has established and funded an OPEB Trust Fund to begin allocating the funds necessary to meet this obligation. In FY 2020, the OPEB funding plan received \$4,781,980 in Town funding. Current Town policy calls for a minimum increase of \$250,000 in operating revenue annually into the OPEB Trust Fund. I consider the Town's long term obligations of Pensions and OPEB like a family's credit card debt. By not paying down the required balance over time, the overall costs will increase and the funds "saved" and spent on monthly operating expenses cannot be sustained. Under the circumstances I recommend deferring the annual \$250,000 OPEB contribution that is otherwise required under the Town's financial policies.

CONCLUSION: This interim FY 2021 Budget provides a balanced budget for Annual Town Meeting's consideration on June 9, to become effective on July 1, 2020. This revised plan represents an overall reduction of 3.7% from the initial budget submitted in February. It reduces the School Department's budget and Municipal departmental budgets by 3.5% and 4.1% respectively.

I understand the negative impacts that such a dramatic and sudden reduction in Town's revenues creates and the uncertainty in what the future holds. The special town meeting scheduled for November of 2020 can serve as a final opportunity to adjust the FY 2021 Budget depending on new revenue assumptions, innovative or cooperative solutions with the Town's unions or to meet competing Town priorities. I look forward to working with the Select Board, Advisory Committee, School Committee and others in meeting this challenge.

Sincerely,

A handwritten signature in cursive script, appearing to read "Melvin A. Kleckner".

Melvin A. Kleckner
Town Administrator



FY2021 Revised Budget
Presentation to the Select Board

Melvin Kleckner, Town Administrator
06/02/2020

FY2021 Budget History and Context

Initial FY2021 Budget Submitted (February 15, 2020)

- ❑ \$359 million; 6.8% increase over FY2020
- ❑ Funds third year of the 2018 Override Plan
- ❑ Investments in CIP and Reserves

COVID -19 Impacts on Economy and Town's Budget (March-May 2020)

- ❑ Rapid and comprehensive impacts on economy. In Massachusetts, nearly 900,000 have filed unemployment claims since COVID-19 shut down the economy
- ❑ For FY2021, impacts will be felt in State Aid reductions and in Local Receipts

FY2021 Revenue Projections and Budget Shortfall /Allocation Scenarios (April-May 2020)

- ❑ Developed three revenue scenarios, projected loss ranges from \$6M to \$19M
- ❑ Settled on a composite scenario at \$12.7 million
- ❑ Final projected shortfall of \$12.1 million following Select Board direction on a parking meter rate increase

Discussion of Budget Policy Issues (May 2020)

- ❑ Convened Town School Partnership Committee
- ❑ Received input and policy direction from the Select Board and Advisory Comm.
- ❑ Use of Free Cash and/or Reserves
- ❑ Funding the Capital Improvement Plan
- ❑ BFAC Recommendation on Stabilization Fund appropriation
- ❑ Timing/length of the budget problem

Presentation of Town Administrator's Recommendations (June 2, 2020)

FY2021 Budget Two-Step Process

Interim Budget for June 23 Annual Town Meeting

- Legal requirement is to have a budget in place by July 1, 2020

Final Budget for November Special Town Meeting

- A final balanced budget must be in place for setting the Town's tax rate prior to January 1, 2021
- Will have more information available on revenues and possible federal aid
- Will provide more time for in-depth consideration of policy issues and variable budget strategies with a longer-term view
- Will allow for more public input

Revised Budget Highlights

Budget Shortfall = \$12,159,415 (from Original FY2021 Budget)

- ❑ State Aid reduced by \$3,336,225
- ❑ Local Receipts reduced by \$8,823,190

Capital Budget reduced by \$3.5 million

- ❑ School Classroom Capacity reduced by \$2.5M
- ❑ Park renovation projects deferred \$1.3M (\$160K savings in FY2021)
- ❑ Further consideration of all projects in Fall 2020

Departmental Operations

- ❑ School Department budget reduced by \$4,362,148 (-3.5%)
- ❑ Municipal Department budgets reduced by \$3,342,341 (-4.1%)

Reserves and Long-Term Obligations

- ❑ Use of one-time funds not recommended for “Year 1”
- ❑ Defer OPEB annual increase of \$250,000
- ❑ Stabilization Fund vs. Annual Reserve Fund

COVID-19 Direct Impacts- Relying on Federal Funding (FEMA, CARES, CDBG)

Scenario 2 Assumptions on Local Receipts

Revenue Source	FY2020 Budget	FY2021 Original Budget	FY2021 Revised Budget (6/20)	Variance	%	Notes
Motor Vehicle Excise	\$ 6,142,644	\$ 6,265,497	\$ 5,952,222	\$ (313,275)	-5%	
Local Option Taxes	3,460,310	5,243,495	2,871,748	(2,371,747)	-45%	Hotel, meals, marijuana sales
Licenses & Permits	1,170,775	1,180,775	952,259	(228,516)	-19%	Alcohol, common vic., fire prevention
Parking & Court Fines	3,300,000	3,300,000	1,650,000	(1,650,000)	-50%	
General Government	4,564,268	5,317,930	5,052,033	(265,897)	-5%	Building permits, host community agreements
Interest Income	974,977	999,351	749,513	(249,838)	-25%	
In Lieu of Taxes	1,010,509	1,530,719	1,377,647	(153,072)	-10%	
Refuse Fees	2,850,000	3,598,654	3,224,327	(374,327)	-10%	Assumes mid-year rate increase
Departmental & Other	7,646,736	8,438,378	5,221,860	(3,216,518)	-38%	Parking meters
Total	\$ 31,120,219	\$ 35,874,799	\$ 27,051,609	\$ (8,823,190)	-25%	

Municipal Department Reductions

Goals

1. Minimize reductions in staff and direct service impacts
2. Minimize layoffs of incumbent personnel

Budget Reduction Strategies

- Take advantage of facilities, programs and services impacted by COVID-19 (Library, Senior Center and Recreation programming)
- Eliminate funding for vacant positions where possible
- Eliminate new investments in staffing and programming
- Reduce office supplies, equipment replacement and other “Low impact” accounts

Departmental Budget Reductions

Department	Reduction	Notes
Select Board	\$ 37,514	Continue to furlough PT position, professional development
Human Resources	44,300	Professional development, consulting services
Information Technology	43,975	Intern program, services
Diversity, Inclusion, & Comm. Rel.	23,750	Programming
Finance	188,160	Reduced credit card trans, 1 vehicle, postage, software
Town Counsel	106,140	General consulting, claims and settlements
Town Clerk	9,450	Overtime, supplies
Planning & Community Dev.	125,423	1.5 vacancies, delay filling sustainability position
Police	506,412	Continue to furlough 2 FT positions, 1 vacancy, equipment
Fire	424,894	1 vacancy, equipment, supplies
Building	261,980	1 vacancy, repairs and maintenance
Public Works	676,647	3 vacancies, capital outlay, supplies, services
Library	388,535	Continue to furlough PT positions for part of year, supplies
Health	30,000	1 vehicle
Veterans	34,600	Intern program, services
Council on Aging	94,037	Continue to furlough PT positions
Recreation	110,934	Shift 2 positions to the Revolving Fund
Leased Computers (Town wide)	20,000	
Utility Savings (Town wide)	86,175	Recent gasoline/diesel bids
Group Health (Town wide)	129,415	Vacant position reductions
Total	\$ 3,342,341	

Recommendations

- Reduce by \$3.5 million to mitigate impacts to staffing and direct service impacts during the COVID-19 emergency
- Reduce funding for Classroom Capacity (future leases)

Policy Issues

- Remaining operating revenue of \$12,735,013 does not meet town policy of capital funding target of at least 6% or prior year net revenue
- Overall capital funding of \$21,050,477 does meet 7.5% Policy
- Review status of large bond funded projects in Fall of 2020

Capital Budget Reductions

Revised FY2021 Capital Budget

Description	Revenue or Bond Financed	Amount	Reduction	Notes
Garage floor sealants	R	\$ 215,000	\$ (215,000)	
Traffic calming	R	81,500	81,500	Alternate funding source is the Parking Meter Fund
Parking meter upgrades	R	322,000	(106,080)	Provides operating relief
Street rehab	R	2,649,916	(370,420)	Alternate funding source is prior year CIP accounts
Robinson Playground	B	1,150,000	(1,150,000)	
Schick Park	R	160,000	(160,000)	
Town/School grounds	R	165,000	(10,000)	
School furniture	R	70,000	(70,000)	
HVAC equipment	R	150,000	(50,000)	
Oil tank removal	R	100,000	(100,000)	
Classroom capacity	R	6,573,751	(2,500,000)	
Total Revenue Financed Reductions			\$ (3,500,000)	
Total Bond Financed Reductions			\$ (1,150,000)	

Note: Projects highlighted in blue are in line with the AC Capital Subcommittee recommendation



Reserves and Long-term Obligations

Reserves

- Stabilization Fund
- Free Cash (Unreserved Fund Balance)

Long-term Liabilities

- Pension Funding
 - OPEB
- 

Free Cash



\$14,392,269.00

	Feb-20	Jun-20
Free Cash Certification	\$14,392,269	\$14,392,269
1. Operating Budget Reserve (25% of operating budget reserve)	699,726	1,699,726
2. Fund Balance	4,600,000	4,326,549
a. Unreserved Fund Balance (left unappropriated)	2,600,000	3,326,549
b. Stabilization Fund (appropriated)	2,000,000	1,000,000
3. Liability Reserve (to get fund to 1% of prior year net revenue)	50,529	50,529
4. Capital Improvements (to get to 7.5% of prior year net revenue)	4,198,356	4,198,356
5. Affordable Housing Trust Fund (if Fund Balance falls below \$5M)	726,549	-
Sub-Total	\$10,275,160	\$10,275,160
Amount available for Special Uses	\$4,117,109	\$4,117,109
6. Special Uses:		
a. Additional CIP	\$4,117,110	\$4,117,110

Timing and Next Steps for Phase 1

- Special budget meeting of the Select Board on Thursday, June 11
- Advisory Committee review and report by June 18
(supplement mailing deadline)
- Possible budget amendments
- Town Meeting on June 23

PUBLIC SCHOOLS of
BROOKLINE

**FY 2021
Preliminary
Budget**

2020 Annual Town Meeting

Budget Detail

Version: 6/18/2020

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School Committee Budget Development Guidelines and Priorities

The Brookline School Committee (BSC) is responsible for approving and overseeing the Public Schools of Brookline (PSB) annual budget. In accordance with those responsibilities, the BSC annual process begins with this statement of priorities and guidelines to inform the Superintendent's initial construction of a budget for the next fiscal year.

BUDGET DEVELOPMENT PRINCIPLES

The budget should serve to accomplish the Public Schools of Brookline district goals:

1. Every Student Achieving
2. Every Student Invested in Learning
3. Every Student Prepared for Change and Challenge
4. Every Educator Growing Professionally

The BSC urges the Administration to follow these **best practice principles** for budget development:

1. Emphasize transparency and accountability in the development, presentation, and management of the annual budget, with expenditures and/or reductions expressed in a format readily understandable by the public and anchored in clear goals, initiatives, and supporting investments for both the district as a whole and for individual program budgets.
2. Describe the effect on the teaching and learning experience (i.e. students, families, and staff) of any proposed budget changes that are substantive (increases and decreases).
3. Minimize reliance on one-time revenues for ongoing operating budget needs.
4. Plan adequate contingency funds for uncertainties and fluctuations in known areas of budget pressure such as (but not limited to) enrollment, special education, and State budget commitments.
5. Maintain solvency within Revolving funds (such as school lunches and adult education).
6. Seek savings through efficiencies within existing programming and/or staffing before seeking additional revenue, provided the proposed change(s) achieve both sustainable improvements in teaching and learning as well as operational efficiencies.
7. Continue the sustainable growth budget model urged by the 2007 Override Study Committee (OSC), approved by the BSC in 2008, and affirmed by the 2014 OSC: ... "consistent with our obligations to engage in good faith bargaining pursuant to M.G.L. Ch. 150E, [the BSC will] incorporate into our approach to bargaining in the coming year the approach recommended in the Override Study Committee Report of January 2008 on managing total personnel costs, so that the combination of salaries, employee health benefits, and staffing levels grow at a sustainable rate."
8. Develop school level-budgets that are informed by a consultative process between budget managers and resource end users (student, families, and staff) in order to ensure that the budget is responsive to end-user concerns about resource allocation priorities. Ensure that this process is described in budget narratives to facilitate district-wide early identification and assessment of budget prioritization issues.

9. Align budget prioritization processes with continuous efforts to measure and evaluate program value, program priority, program effectiveness. These prioritization processes should be guided by state and federal mandates, school committee policy, curriculum coordinators, and staff and educators' experiences with implementation.

BUDGET DEVELOPMENT CURRENT CONDITIONS & PRIORITIES

The 2018 operating override was structured to cover three years of budget growth, and FY 2021 is the last year in that budget. The FY 2021 budget continues to produce a structural deficit in achieving maintenance of effort.

The BSC and PSB will collaborate with the Board of Selectmen and an Override Study Committee during the establishment of this budget to determine the additional funds required to sustain educational equity and excellence. To that end, the budget should remain consistent with the **PSB's ongoing commitments:**

1. **Low student-to-teacher ratios**, especially in the early grades
2. **High quality curriculum**, including:
 - **Program Review** – a periodic fact-based evaluation and revision of our core programs for students; the mathematics program is currently under review; and
 - **Evidence-based student achievement initiatives** that advance our curricular goals
3. **Student and staff diversity, equity and inclusion**, as large inequities in opportunity and achievement by race, income, special needs and language continue to persist in the PSB. Investments should include but are not limited to core education program areas that address these inequities, diverse educator and administrator recruitment, professional development, and the METCO and Materials Fee programs
 - **Financial assistance policy** – The FY 2021 budget should also include funding for a new BSC financial assistance policy aimed at ensuring equitable student access to opportunities, including an assessment of fees charged to students and ensuring an appropriate supplies budget
4. **High quality in-district programming and inclusion classrooms for students with special needs**, including resources required to provide for increasing need for medical support, as well as identifying targeted investments and innovations in district-wide programs. This means ensuring that special needs programming and inclusion is safe, effective, comprehensive, and systematically integrated across all district-wide initiatives, programs, and district-wide capital, administrative, curriculum investments;
5. **District-wide capacity to collect, analyze, and use student data** to understand both individual student growth and access to opportunities, and longitudinal trends for the district;
6. **K-12 art, music, world language, recess, social emotional learning and physical education** as part of the school day;
7. **Educational technology**, including investments required to maintain a robust and flexible technology infrastructure, equitable and universal access to advanced technology for all our

students in a growing School population, professional development and support to bolster approaches to teaching and learning, and costs of implementing and supporting a new statewide testing system.

- 8. **Continuous efforts to seek feedback** in the budgeting process from the end users of district resources (teachers, staff, school leaders, students, community members, e.g. School Site Councils) about the operationalization of the budget in educational contexts and school management practices. This includes creating opportunities annually to learn from all key stakeholders about perceived over-investments, deficits, and priority areas for sustained levels of investments.
- 9. During FY 2022, the new superintendent will lead a process to develop a **strategic plan**. Once a strategic plan is in place, it will be guide budget priorities, staffing and resource decisions, and programmatic priorities.

The budget also reflects the following **current conditions**:

- 1. **Student Enrollment:** The Enrollment Projections Working Group (EPWG) was established in Spring 2019 to assist the District in thinking through a new methodology for projecting student enrollment moving forward. Ultimately, the EPWG hired a consultant, Cropper & McKibben, to produce a demographic analysis for the district. Cropper & McKibben’s ten year enrollment forecast report can be found [here](#). The forecasts from Cropper & McKibben indicate the district’s enrollment growth is leveling off (PK-8 remains stable while BHS will continue to grow before stabilizing)

	Pre-K through grade 12	Pre-K in Elementary School	Pre-K in off-campus Lease sites	Pre-K through grade 8	Grades 9-12	Out of District Placements
2017-2018 Actual	7,876	62	218	5,482	2,063	51
2018-2019 Actual	7,938	91	180	5,503	2,102	63
2019-2020 Actual*	7,777	74	178	5,694	2,083	60
2020-2021 Projected*	7,867	74	178	5,738	2,129	60

- 2. **Operating Implications of Capital Needs:** Enrollment growth has had, and will continue to have both operating and capital implications. The pressing needs of the schools for physical expansion and the operating budgets for those buildings are inextricably linked: limitations and/or expansions in the physical plant can drive decisions about class sizes, the number of courses offered and other program choices, and rental space—all of which have implications for the operating budget. The PSB Administration should plan for and highlight those incremental operating costs in the FY 2021 budget, including but not limited to BEEP capacity, High School expansion, the addition of a 9th Elementary School, and the reopening of the renovated Devotion

School.

- 3. **Collective Bargaining:** The BSC signed new contracts with all of its unions during FY 2017. The 2021 budget reflects the contracts, and future projections should reflect new contracts consistent with the sustainable growth budget model indicated above.

BEU	AFSCME
Unit A - Through August 31, 2019	Food Service - Through June 30, 2021
Unit B - Through August 31, 2019	Custodial - Through June 30, 2021
Paraprofessionals - Through August 31, 2019	BESA - Through June 30, 2021

- 4. **State Mandates:** The BSC expects the PSB to continue to budget to meet the demands of various mandated initiatives. Mandated initiatives for FY 2021 include:
 - 1. **Legislative and DESE regulatory changes.** The PSB will review and update policy, guidelines, and services in accordance with new legislative mandates and DESE regulatory changes.
- 4. **Special Revenue Funds.** Continue to review and analyze the sustainability of reliance on these funds for basic and specialized program needs.
 - a. **Revolving Funds:** See attached fee schedule.
 - b. **Grants:** See attached.
- 5. **Decentralizing Budgeting.** Continue ongoing process for using school-based budgeting that is developed through collaboration and coordination between curriculum coordinators and principals in order to effectively staff, schedule, and resource schools so school-based and district-wide priorities can be met. Coordination and collaboration between curriculum coordinators and principals will be focused on improving reporting of resources allocated and lead to increased school-level decision making.

Submitted by the Brookline School Committee as voted on December 12, 2019.

Julie Schreiner-Oldham, Chair
 Sharon Abramowitz, Service
 Helen Charlupski, Service
 Susan Wolf Ditkoff, Service
 Michael Glover, Service

Suzanne Federspiel, Vice Chair
 Jennifer Monopoli, Service
 David A. Pearlman, Service
 Barbara Scotto, Service

Budget Format

School Department Budgets are School Committee policy documents that reflect an organization's most important priorities. Outstanding budgets align expenditures to an organization's core values and strategic goals. The Superintendent, Senior Staff, Principals, Curriculum Coordinators, Department Heads, and all other program leaders worked extensively and collaboratively this year to bring the Public Schools of Brookline's (PSB) goals to life through this document.

The School Department has moved to use OpenGov in partnership with the Town. More detailed department descriptions and information will be available at the web site:

<https://www.brookline.k12.ma.us/Page/108>. We are optimistic that we will have an interactive financial plan for TMMAs, boards, committee, employees, and community members to review and see our budget planning document and prioritization of funds.

The budget format is organized to increase transparency, readability, and compare with other Massachusetts communities by using the [DESE Chart of Accounts - Criteria for Financial Reporting](#). The narrative section of each School, Program, Department is organized to provide an overview, goals, and reflect future needs. This document joins programs and departments to reflect the full context that the department or program offers students. It also continues to contain the topics of Program Description, Budget Statement, Objectives and Accomplishments consistent with the Town Financial Plan.

Personnel:

- Personnel (51* accounts): List of all funded positions, stipends, & additional compensation by bargaining unit and non-aligned. If it is not listed, it is not funded. Personnel expenses encompass costs related to employee salaries. Included in this is both regular weekly pay, as well as additional compensation, stipends, program development and overtime.
 - Example: Custodians throughout the elementary system are paid weekly through their home code. Additionally, they may receive overtime if they work on a project outside of the scope of their normal day.
 - 1. Base: Existing staff that were approved and voted by School Committee as of February 15, 2018.
 - 2. New requests: Mandated, Enrollment, Enhancement, Expansion hired/requested after February 15, 2018
 - a. In addition to the above, New Requests should have a description summary of why the position is needed, how the district is not already providing this service, and the impact on student learning the position will provide.

New Request Description Summaries Start Here under the charts and tables

Services, Supplies, Other and Capital

- Services (52* accounts): Expenditures for services that by their nature can be performed only by persons or firms with specialized skills and knowledge. While a product may or may not result from the transaction, the primary reason for the purchase is the service provided. Services are those expenses that are provided by an outside vendor, and that do not include goods. This

includes a wide variety of activities, from outside consultants to the services provided by private residential placements for children receiving special education services.

- Example: The Public Schools of Brookline contracts out Transportation Services to a number of private companies. You will find the total budget for the contract under the services line in their budget table.
- Supplies (53* accounts): As a general guideline, a supply item is any article or material which meets at least one of the following conditions: It is consumed in use; It loses its original shape or appearance with use; It is expendable, that is, if the article is damaged or if some of its parts are lost or worn out, it is usually better to replace it with an entirely new unit rather than repair it; It is an inexpensive item whose small unit cost (less than \$5,000) makes it inadvisable to capitalize the item; It loses its identity by incorporation into a different or more complex item. Supply accounts encompass costs for goods that have an expected life of less than one year. Under this group, we charge textbooks, pens, paper, copy supplies, etc.
 - Example: The BHS Science Department decides to order 15 sheep brains for a Biology class. This is charged to the BHS Science Instructional Supply account.
- Other (55* accounts): Expenditures for transportation, meals, hotels and other travel expenses incurred by staff traveling within the Commonwealth. Per diems in lieu of reimbursement are also included in this grouping. Seminar fees are not travel costs and should be classified as Professional and Technical Services. Also included are expenditures for memberships in professional and technical organizations. The full costs of the dues or membership fees should be charged here even if the cost includes tangible items such as a subscription to a journal. Other accounts are defined as those expenses that are neither durable goods, nor traditional services provided by an outside entity. They are more loosely defined because they encompass a wide variety of costs; examples of this could include:
 - Conference Fees
 - Travel Expenses (mileage, hotels, rental cars, etc.)
 - Dues and Memberships
 - Example: The Director of Educational Technology and Information Science attends the annual Massachusetts School Library Association Conference held in Sturbridge, Massachusetts. This expense is charged to their budgeted Conference Fee line item (316099-553020).
- Capital (5A* accounts): These codes should be used whenever possible to monitor expenditures for eventual capitalization of fixed asset acquisitions. Schools typically have expenditures to either replace or expand equipment used by students and employees in school buildings. Examples include furniture, kilns, and microscopes. Capital accounts are used for durable goods that have an expected lifespan of more than one year, and/or have a cost of greater than \$15,000.
 - Example: The Information Technology Services Department, as a part of its annual 5-Year computer replacement plan, leases approximately 350 Apple Computers and charges them to the IT Services Leased Computer Equipment line item (317899-5A0017).

Budget Overview & Summary

After submitting the initial FY 2021 budget for the Public Schools of Brookline (PSB) on January 30, 2020, the debilitating effects of the COVID-19 pandemic reached the United States. Brookline was not exempted. As one of the earliest municipalities in the state to record positive cases, public health officials declared a public health emergency and ordered the closure of most Brookline businesses. On March 13, 2020, Interim Superintendent Ben Lummis closed the Brookline schools. Two days later, Governor Charlie Baker announced the closure of schools across the state. By April, only businesses deemed essential could continue in brick and mortar operation. Schools remain closed.

The mass closures at the federal, state, and municipal levels yielded a devastating impact on local economies. With most businesses closed, the Town could not collect local receipts and state aid at the previously anticipated levels. As approximately 29% of town revenues come from local receipts and state aid, the economic shutdown left Brookline in a precarious fiscal predicament. At a Town-School Partnership meeting on May 15, 2020, the projected budget shortfall for the Town of Brookline was reported to be \$12.8 million. To help bridge this gap, the Town notified the PSB that it had to reduce its budget by \$6.3 million, a 5.3% reduction from the budget that the School Committee had approved for FY 2021 less than a month earlier.

As the PSB budget was developed between January and April the school department identified approximately \$3.8 million of planned, projected, and actual cuts including \$1.1 million in actual reductions in order create a balanced budget at the approved level \$121,475,537. The need for these reductions was primarily a function of highly competitive rising personnel salaries (approximately 87% of the budget), mandated increases in special education (including a 27% increase in out-of-district tuition expenses), mandated increases in \$650,000 transportation, enrollment growth of 232 PreK-12 students in our school buildings since 2017-2018 (at an average cost per student of \$19,921.88), three year 2018 override underfunding (\$8,375,132) approved by voters.

The January through April 2020 reductions sought to preserve existing programs, staff, and services. The cuts took place in professional development, consolidations of small classes in upper elementary and middle grades, cuts to supplies, cuts to internship programs, staff reductions primarily through attrition, and by not filling previously projected new positions at Brookline High School. The news on May 15 that an additional \$6.3 million would need to be cut on top of this \$3.8 million meant that presenting a balanced budget to Town Meeting for FY 2021, as required by state law, would require more painful decisions. The original contractual deadline to issue Reduction in Force (RIF) notices to teachers who may not be employed in the fall was also May 15, and School Committee negotiated an extension with the Brookline Educators Union to May 30.

As personnel costs account for 87% of the school budget, it was impossible to make an additional \$6.3 million in reductions without impacting staff. School Department administration and School Committee reached out to the Advisory Committee, Select Board, Town Administrator, and other governmental entities to pursue additional funds. Unfortunately, the time constraints of the May 30 contractual deadline

to issue Reduction in Force (RIF) notices rendered many of these external funding channels impractical for timely resolution. Other options pursued by school districts across the state and country, such as pay cuts, freezing Steps and Lanes, and furloughs, require successful negotiations and agreement from unions. In most Massachusetts districts, the RIF deadline is June 15. Getting the update from Town School Partnership on May 15 that the schools had cut \$6.3 million left the schools only two weeks to identify all reductions before the May 30 deadline and notify staff.

In an effort to minimize the impact on students of these further cost reductions, Interim Superintendent Lummis identified \$1,695,500 worth of cuts to central office, district-wide leadership, and expenditures. Up to \$2,016,502 of reductions from the elementary school level and up to \$1,258,367 from the high school were also proposed. The categories of cuts within these groupings centered around non-mandated programs that might not be as easily transferrable to an online remote learning model.

Cutting staff positions is not a linear, straightforward process. State regulations and the collective bargaining agreement with the Brookline Educators Union require that any teacher with pre-professional status (three years or less on the job) be “bumped” out of a position before any higher seniority educator with active licensure in the same category. This holds true even if that higher seniority educator does not currently teach in the category for which a license is held. The seniority structure creates a complex matrix of prioritization that spills across multiple departments, programs, and schools. Even in more typical reduction times, it leads districts to issue RIFs to a broader array of teachers than the district actually intends to lay off. Most RIF notices are subsequently recalled during the summer months as the “bumping” process sorts out. The RIFs issued by the PSB in advance of the May 30 contractual deadline were no different in this respect. Indeed, as of June 15, 2020, over 300 of the 362 RIFs have been rescinded, with additional recalls anticipated in the days ahead.

The accelerated pace of recalls has been facilitated by (1) the School Committee’s decision to temporarily eliminate previously budgeted planned annual salary increases for personnel (\$2,221,500), (2) the School Committee’s decision to affirmatively renew its commitment to a BEEP program partially subsidized by tuitions and COVID-19 special assessments in 2020-21, and (3) by the Town’s reallocation to the PSB of Capital Improvement Program (CIP) funds covering school leases, principally the BEEP Center at 2 Clark Rd. (\$1,918,401). The School Committee’s difficult decision to forgo the previously budgeted annual salary increase for personnel does not affect Steps and Lanes. “Steps” increases provide most teachers with annual salary increases of between 3-5%, capped at 17 years, based on seniority. “Lane” increases provide teachers an approximately 10% one-time salary increase for post-graduate educational attainment that raises their salary from that time forward.

The uncertainty of the COVID-19 pandemic and its impact on schooling for Fall 2020 further complicate formulation of the specific line items of the FY 2021 budget, as the PSB needs to plan for an unknown learning environment under unknown directives and guidelines from the governor, the Department of Elementary and Secondary Education (DESE), U.S. Department of Education (DOE), and public health agencies. To plan for a variety of evolving circumstances necessitates flexibility in staffing, scope of services, and programmatic delivery. Multiple contingencies need to be planned to account for a

traditional full school year in PSB buildings, a partial school year in PSB buildings, a hybrid model of both in-person education and remote learning, and remote learning alone. As of this writing, DESE and the DOE have still not unveiled their full plans for the upcoming school year.

The Department of Early Education & Care recently released requirements around the relaunch of pre-school education dictated that class sizes will need to be reduced to 10 students per class. If recommendations from the Department of Elementary & Secondary Education (DESE) also restrict class size, these smaller class sizes in a town already starved for classroom space will pose both a logistical challenge as well as a financial one. Moreover, almost none of this PreK-12 contingency planning accounts for the substantial COVID-19 health expenses of cleaning, equipping, maintaining, and monitoring public school buildings to the extent necessary to promote the safety and wellbeing of our students, staff, and educators. Nor do these contingency plans account for the full COVID-19 related educational and service expenses of hiring additional staff or procuring supplementary resources to ensure a Free and Appropriate Public Education (FAPE) for all students in compliance with federal law, a particular challenge during a pandemic for immunocompromised students and those with physical challenges. Additional funds will be needed for these critical COVID-19 related functions. Further, the Massachusetts Legislature has not completed the state budget leaving uncertain the level of Chapter 70 funding. At this time, it is likely that Chapter 70 funding will not be determined until late summer or even the fall. The School Department and School Committee remain committed to working with our partners at the municipal, state, and federal levels to address this anticipated critical funding shortfall for FY 2021.

Despite the plethora of unprecedented challenges this year, the FY 2021 budget maintains the Public Schools of Brookline's core mission to ensure that every student develops the skills and knowledge to pursue a productive and fulfilling life, to participate thoughtfully in a democracy, and to succeed in a diverse and evolving global society, no matter what form(s) school takes in the coming year. The FY 2021 budget rests on two foundational principles: first, that Brookline should expect nothing less than exceptional and equitable outcomes for all of our learners, and second, recognition that in an effective school system, what takes place in our classrooms and our schools matters the most. We must use our resources to ensure that we enable every student to succeed at high levels, and to promote the centrality of our classrooms. As such, administration supports principals as instructional leaders, so that principals can support educators, and educators can support each and every one of our students.

The School Committee is responsible for approving and overseeing the Public Schools of Brookline (PSB) annual budget. The budget is driven by the Public Schools of Brookline's five core values: high achievement for all, educational equity, excellence in teaching, respect for human differences, and collaboration. These values focus on maintaining the quality of education, programs, and services in the face of historic and ongoing enrollment growth, and on maintaining small class sizes and the resources needed to fund new student support positions in guidance, nursing, and English Language Learning. These goals also continue the work on critical priorities, including educational equity, restorative practices, and curricula review and renewal. In adhering to these values, the School Department is urged to follow best practice principles for budget development: 1. emphasize transparency and accountability in the



development, presentation, and management of the annual budget, with expenditures and/or reductions expressed in a format readily understandable by the public; 2. describe the effect on the teaching and learning experience (i.e. students, families, and staff) of any proposed budget changes that are substantive (increases and decreases), 3. minimize reliance on one-time revenues for ongoing operating budget needs; 4. plan adequate contingency funds for uncertainties and fluctuations in known areas of budget pressure such as (but not limited to) the COVID-19 pandemic, enrollment, special education, and State budget commitments; 5. maintain solvency within revolving funds (such as school lunches and adult education); 6. seek savings through efficiencies within existing programming and/or staffing before seeking additional revenue, provided the proposed change(s) achieve both sustainable improvements in teaching and learning as well as operational efficiencies; and 7. reflect the sustainable growth budget models and evaluative metric systems recommended by the 2020 Brookline Fiscal Advisory Committee Report.

In the face of unique public health challenges and town revenue shortfalls, the FY 2021 budget request of \$118,998,990 focuses on maintaining the increasingly important commitment to small classes, to maintaining current staffing levels to the greatest extent possible, and to improving services with an agility and preparedness that will enable the PSB to swiftly recalibrate its educational delivery systems to reflect rapidly changing variables in public health and the economy.

This budget overview is organized into two sections designed to explain in detail the major forces affecting the FY2021 budget and provide a high-level summary of the budget focusing on major revenue and expenditure categories.

- Section I Summary of Expenses
- Section II Summary of Revenues



Section I – Summary of Expenses

The proposed FY 2021 budget is no longer designed to continue the commitments to taxpayers made during the 2018 and prior overrides. As recently as the 2018 Override, the School Committee presented the Town with an override request \$2 million over what was approved and funded. FY 18 closed with a \$475,000 deficit that was balanced using Chapter 70 funds, the Benefit Reserve Account and Special Education Tuition Account that was partially backfilled by Circuit Breaker claim funds over projection from the FY 19 budget. The FY 20 budget is closing also in a deficit due to unforeseen impacts on COVID -19 expenditures. All of which indicate that the district can no longer carry the structural deficit problem by managing the deficit through attrition and unexpended expense lines. While both the 2018 and 2015 operating budget overrides began to address the enrollment challenges and set our schools on a path towards greater stability, improved services, and better support for all of our students, there is still a funding gap.

Program	FY20 STM Approved Budget	FY21 Town/School Partnership 5/29/20	FY21 Balanced Budget Recommendation
Expenses			
Personnel	\$ 104,045,184	\$ 104,703,918	\$ 658,734
Services	\$ 11,502,584	\$ 12,105,650	\$ 603,066
Supplies	\$ 1,799,606	\$ 2,019,884	\$ 220,278
Other	\$ 1,280,371	\$ 847,837	\$ (432,534)
Utilities	\$ 10,350	\$ 10,350	\$ -
Capital	\$ 1,234,348	\$ 1,178,048	\$ (56,300)
Transfers to Municipal Depts OA Title 1 revision	\$ -	\$ 609,850	\$ 609,850
Expense Total	\$ 119,872,443	\$ 121,475,537	\$ 1,603,094

The FY 2021 budget expenditures focus on maintaining the increased staffing and improved support services provided since 2015 as well as implement the limited number of strategic investments from the 2018 override in our work to address equity throughout the system. However, the district is unable to fund the planned year three expenditures of the 2018 override.

As our projected operating deficits continue to exist in the upcoming years, the senior management team, principals, and other budget managers will continue work on scheduling, staffing, hiring and programming to find improvements that maintain quality while curtailing expenditures. Our ongoing efforts to find efficiencies and to retool and revamp programs will necessarily result in further reallocation and realignment. PSB’s primary mission is to be in service to students, and we need to fulfill that mission within the reasonable financial limits set by our community.

Personnel

In the FY 2021 budget, all salary line items reflect each employee budgeted at their appropriate step and lane.

Program	FY20 STM Approved Budget	FY21 Town/School Partnership 5/29/20	FY21 Balanced Budget Recommendation
Personnel	\$ 104,045,184	\$ 104,703,918	\$ 658,734

The FY21 personnel increases are a net of the following:

- Live within our means by foregoing adding new positions in favor of preserving, as best we can, the programs, staff, services, and support we currently have -
 - Reduction of planned growth from override - \$1,157,208 (teachers and one school-based administrator)
- Eliminated planned annual increases for all staff except those that are contractually obligated (AFSCME, BEU steps and lanes)
- Adjust staffing, programs, and services based on as part of an annual assessment of what is needed in the upcoming year
 - Professional Development: defund 184th day (second district-wide professional development day) that has never been used; Focus teacher mentor programs on beginning teachers - \$235,000
 - Consolidation of small classes in upper elementary and middle grades - Lawrence, CCS, Pierce, and Heath - \$353,500
 - Special education staff based on reduction of known and anticipated needs of students (6.4 FTE) - \$314,000
 - Eliminate BU Internship program - \$80,000
 - Reduction of summer OTL optional planning days \$9,500
- Identify cost savings through targeted adjustments rather than across the board cuts to any programs
 - Adjustments based on school scheduling needs - does not reduce programming that students will receive (Visual Arts .5 FTE; World Language .4FTE; Math specialist/coach .7 FTE)
 - Unfunded Positions in Central Office and District Wide leadership
 - Senior Director Office of Teaching and Learning
 - Special Assistant for Strategy & Performance
 - Special Education Director (retirement)
 - Data Analyst Position
 - K-12 Coordinator for Wellness
 - Consolidate Math and ECE Curriculum Coordinators

Contract Negotiations

The FY 2021 budget requests contain funding to address only agreed collective bargaining negotiations for three AFSCME units. Included in the proposed budget is funding to support the anticipated salary movement for step and level advancement of all school employees. There are no contractual increases for three BEU contracts and the non-aligned employees.

Other Personnel Account Changes

The FY 2021 budget uses a practice of applying a salary differential, attrition, or turnover savings to reduce the total cost of personnel funding. The practice estimates a savings due to employee turnover (resignation, retirement, termination, or reduction in force). The offset used this year is \$650,000. The budget experiences an estimated turnover saving of approximately \$350,000 for BEU Unit A, and \$200,000 for BEU Paraprofessionals, and \$100,000 for Unit B, AFSCME and Non-Aligned.

Personnel by Category

Personnel costs (exclusive of benefits) make up 86% of the school budget. The table below provides a summary of bargaining unit, FTE Total, and Budget Request total (\$). The School Committee reserves funds for a portion of new FTEs requested to be transferred at the November Special Town Meeting to the Town’s Unclassified Account for Health Insurance as part of the Special Town Meeting appropriation process.

Categorization of Positions and Work Year

The School Department often receives questions about the number of staff. We only show staff in full-time equivalencies (FTE). Positions that utilize head counts, for example are Unit A- Stipends and Unit A-Coaches. Both of these budget lines do not display FTEs but a dollar amount based on head count filled. These positions are additional pay amounts for a specific function for a specific period of time and not benefits eligible. The School Department has traditionally presented their Full-time Equivalency (FTE) summary by bargaining unit. However, this format does not allow the reader to know the basis of work year of 1.0 FTE. Table A, below, is presented in the “Line Number” and “Roll up” order for each category presented in the budget and displays the basis for a 1.0 FTE.

1.0 Full-time Equivalency (FTE)

Group/BU	Description	1.0 FTE Based in Work Week/Day in hours	Work Year (Days or Months)
BEU	Unit A – Teachers	<ul style="list-style-type: none"> ● High School: 6.833 Continuous hours (7:25 pm – 3 pm) per day ● K- 8: 6.33 Continuous hours (7:30 am–3 pm) per day 	183 days <ul style="list-style-type: none"> ● New teachers + 3 Orientation days ● Prof Dev + 1 as notified by Supt.
	Unit A – Librarians	K- 12: 7.583 Continuous hours (7:45 am–4 pm) per day	Same as Above

Group/ BU	Description	1.0 FTE Based in Work Week/Day in hours	Work Year (Days or Months)
	Unit A – Library Assistants	K- 12: 8 Continuous hours (7:45 am–4 pm) per day including 30 minute duty free lunch	Same as Above
	School Adjustment Counselors/Social Workers	K- 12: Shall maintain office hours from 8 am–4 pm per day	
	Pre-School and Pre-Kindergarten Teacher	PreK: 5.383 hours from 7:30am–2 pm or 11:00 am -5:30 pm per day, 4 ¼ hours are student contact time. PreSchool: 4.216 hours from 7:30am–1 pm or 11:30 am -5pm per day, 3 ¼ hours are student contact time.	
	Unit A – Occupational Therapists and Physical Therapists	6.833 Continuous hours (7:25 pm – 4 pm) per day Including 30 minute duty free lunch	
	Unit A – Lab Specialist	K- 12: 8 Continuous hours (7:30 am–4 pm) per day including 30 minute duty free lunch	191 days
	Unit A – Guidance Counselors	K- 12: Shall maintain office hours from 8 am–4 pm per day	183 + 8 additional compensatory days
	Unit A – Nurses	● 6.833 Continuous hours (7:25 pm – 3 pm) per day with 30 minute lunch break (on call for emergency)	183 + 6 additional compensatory days
	Unit A – Education Team Facilitators		183 + 8 additional compensatory days
	Unit A Stipends	No set work day or week in hours	Club/Organization
	Unit A – Athletic Stipends	No set work day or week in hours	Season/Sport
	Unit B - Coordinators	7 Hours per day	
	Vice Principals Curriculum Coordinators		195 Days

Group/ BU	Description	1.0 FTE Based in Work Week/Day in hours	Work Year (Days or Months)
	Supervisors Director of Career and College Counseling		194 Days
	Director of Educational Technology and Libraries; ELL Coordinator; Dir Steps to Success;		210 days
	Director of Athletics		209 Days
	Director of Special Education		208 Days
	METCO Director		203 Days
	Coordinator of Student Health Services; Program Coordinators (School Within a School, Early Childhood Program Coordinator, Opportunity for Change (ACE), Winthrop House, and Program Coordinator of Special Instruction)		190 Days
	Paraprofessionals	37.5 Hours per week, 7.5 hour day, plus 30 minute unpaid meal break per day	12 month 260 days
	Aides and Tutors, except as listed in other schedules, Home/Community Liaison, Tappan Security Monitor	7 hours per day plus 30 minute unpaid meal break per day	183 days Year 1; 189 days thereafter
	High School Parent Liaison, Attendance Officer, Performing Arts Production Aide, ELL Aide (formerly ESL/Bilingual Aide), Counselor for Teen Advantage	7 hours per day plus 30 minute unpaid meal break per day	183 days Year 1; 189 days thereafter
	Security Aide, Graphic Arts Publishing Coordinator	7 hours per day plus 30 minute unpaid meal break per day	183 days Year
	Athletic Aide, Building Aide, Science Resource Aide		188 days or 194 Days
	Early Childhood Extended Day Instructor, Handicap Coordinator		183 days Year 1; 189 days thereafter
	Food Service Assistant		183 days Year 1; 189 days thereafter

Group/ BU	Description	1.0 FTE Based in Work Week/Day in hours	Work Year (Days or Months)
	Educational Technology Support Specialist, Application Support Specialist, Steps to Success Program Advisor, Special Education Budget Analyst	37.5 Hours per week plus 30 minute unpaid meal break per day	12 Month 260 Days
	Senior Application Support Specialist Webmaster Teen Advantage Coordinator	37.5 Hours per week plus 30 minute unpaid meal break per day	12 Month 260 Days
	METCO Bus Monitor	4 hours per day	187 Days
	Parent Outreach Coordinator, Medication Coordinator, Assistant to the Athletic Director	7.5 hour day, plus 30 minute unpaid meal break per day	201 Days
	System Substitute, System Nurse Substitute		AS NEEDED
	Steps to Success Assistant Program Leader		
AFSME	Custodians	40 hours per week, 8 Hours per day, exclusive of meal time,	260 days
	Brookline Educational Secretaries Association	37.5 Hours per week, 7.5 hour day, exclusive of 30 minute unpaid meal break per day	52 weeks exclusive of vacation or other leave; School-year positions shall consist of 45 weeks or 47 weeks, inclusive of school vacation weeks or other leave. The 45-week or 47 week period will be as determined by the Superintendent of Schools or his/her designee.
	Food Service		
Non-Aligned	Central Administrators	40 hours per week, 8 Hours per day, exclusive of meal time,	260 days
	Directors/Deans	37.5 Hours per week, 7.5 hour day, exclusive of 30 minute unpaid meal break per day	260 days
	Non-Supervisory	37.5 Hours per week, 7.5 hour day, exclusive of 30 minute unpaid meal break per day	260 days
	Stipends		

Group/ BU	Description	1.0 FTE Based in Work Week/Day in hours	Work Year (Days or Months)
	Hourly/Daily		180 days to 260 days

Annually staffing changes occur for the following reasons:

- 1) Enrollment Shifts – Spring
 - a) Each year the superintendent includes unallocated teaching positions in anticipation of enrollment shifts and changes as forecasted by the Enrollment Report.
 - b) Once enrollment of kindergarten and secondary course selections take place in May, positions are allocated to each Principal to address enrollment needs that arise after the budget is approved.
 - c) At the secondary level, Principals may need to reallocate staff within their buildings to address student course selection and class size. This means that the FTEs for all subject areas are modified from one year to the next.
- 2) Enrollment Shifts –Summer
 - a) The school department will continue to experience enrollment shifts and changes due to students who move after school ends in June. Therefore, additional staff over the budget allocation may be added. Generally, the staff added are a result of Individual Education Plans (IEP), English Language learners (ELL), and Kindergarten students, or if the unallocated teacher positions were not adequate.
 - b) Each program may reallocate, move, change, and reclassify existing FTE’s to adjust for changing program needs or requirements. These FTEs are highlighted under each bargaining unit.
- 3) Enrollment Shifts – Future School years
 - a) Each program may reallocate, move, change, and reclassify existing FTEs to adjust for changing program needs or requirements. These FTEs are highlighted under each bargaining unit.
 - b) Each year due to projected enrollment or enrollment for each fun type changed that occur during the year, additional staff may be requested during the next budget cycle.
- 4) Reclassification of positions: Periodically positions may be reclassified. Reclassification can consist of
 - a) Promotion or demotion of a position within an employee unit;
 - b) Transfer from one bargaining unit to another; or
 - c) Title change.

Personnel Detail Summary by Category/Line

Brookline Educators Union

Unit A – BEU Teachers: Unit A members are licensed teachers, department heads, and coordinators. They work 183 days and have a salary table recognizing their level of education from bachelors to PhD and the number of years teaching.

Unit A - Stipends: Within the BEU contracts there are stipend positions for various academic, administrative, or extracurricular activities. These positions generally reflect work and activities that are completed outside of the traditional school day

Unit A – Athletic Coaches: Within the Unit A – BEU contract there are stipend positions for interscholastic athletic personnel. These positions generally reflect work and activities that are completed outside of the traditional school day with School Committee recognized sports teams.

BEU –Unit B - Assistant Principal/Supervisors: Reflects the number of administrators without teaching responsibilities who are part of the Association of Brookline Administrators bargaining contract.

BEU - Paraprofessionals: Members of this bargaining unit provide classroom support and instruction to students. The majority of students served are special education students or students identified in sub separate populations.

American Federation of State, County and Municipal Employees (AFSCME) Employee Groups

AFSCME – Custodians = Line No. 6: Formerly assigned to Facilities employees.

AFSCME - BESA (Brookline Educational Secretaries Association): BESA provides the administrative support function. The positions in this unit are both 12-month and 10-month positions and also both full-time and part-time. While most positions are on a full-time basis of 37.5 hours per week, there are a number at 40 hours per week.

Non-Aligned/Contract Employee Groups

Central Administrators: This categorization includes Superintendent, Deputy Superintendents, and Directors working under the Superintendent who have individual employment contracts and are not in a functional area of any other classification of employee.

Principal: Contains all building principals.

Non-Aligned Salary: This category of employees includes non-represented salaried executive administrative assistants, confidential employees, managers/administrators, and other non-union central office employees.

No Benefit - Non-Union Hourly Employees: This group consists of FTEs associated with non-represented hourly employees. Home/Hospital, 504, translator, and extended year services are budgeted at a flat dollar amount.

Substitutes: There are no FTEs budgeted under substitutes. However, the budget for substitutes is now no longer split into two categories, Payroll and Contracted Services. The district budgets a lump sum for these services. The Personal Services for Substitutes cover the estimated cost of the following short-term employees:

1. Long-Term Teacher Substitutes, who are individuals who are hired for ten or more continuous days to cover a classroom for a teacher who is on a short-term leave of absence.
2. Nurse Substitutes: All of our school nurses are provided by contract sick days, personal days and professional development opportunities. If the building nurse should leave the building for a planned period, the district must have a nurse on site to respond to student emergencies.
3. Instructional Assistant Substitutes: This amount is budgeted to cover the cost of instructional assistants that may be needed on a daily basis.

4. Secretary Substitutes: a secretary substitute is hired if an administrative assistant will be absent for an extended period of time.

Salary Savings: While no FTE is assigned to salary differential, the budget includes (\$650,000) as a budget offset.

Operating Budget Expenses

Program	FY20 STM Approved Budget	FY21 Town/School Partnership 5/29/20	FY21 Balanced Budget Recommendation
Expenses			
Services	\$ 11,502,584	\$ 12,105,650	\$ 603,066
Supplies	\$ 1,799,606	\$ 2,019,884	\$ 220,278
Other	\$ 1,280,371	\$ 847,837	\$ (432,534)
Utilities	\$ 10,350	\$ 10,350	\$ -
Capital	\$ 1,234,348	\$ 1,178,048	\$ (56,300)
Transfers to Municipal Depts\$ OA Title1 revision	\$ -	\$ 609,850	\$ 609,850
	\$ 15,827,259	\$ 16,771,619	\$ 944,360

The FY21 personnel increases are a net of the following:

- Further refinement of Special Education Tuition and Transportation projections
 - Tuition = \$469,581
 - Transportation = \$618,138 & 47,500;
- Continue the FY 20 reductions in Supplies/Materials - \$600,380
- Public Building Division Utility Expenses for 2 Clark Rd removed prior to Revenue Allocation - \$151,922
- School Building Services: \$47,136
- Contracted Services reduced
 - Office of Teaching and Learning and General Education Instruction \$500,000
 - Office of Student Services = \$150,00
- Reduction of "Other" Expense Lines = \$300,000

9000 Programs with Other School Districts

9000 PROGRAMS WITH OTHER SCHOOL DISTRICTS: Transfers of payments to other school districts or to non-public schools for services provided to students residing in the sending city or town.

	9100 Tuition to Mass. Schools Tuition or transfer payments to other public school districts in Massachusetts for resident students, Tuition to non-member Collaboratives, Tuition to non-member Regional School Districts.
	9110 School Choice Tuition Transfers made by the state from the sending school district's State Aid to the receiving school district or municipality.
	9120 Tuition to Commonwealth Charter Schools Transfers made by the state from the sending school district's State Aid to the Charter School.
	9200 Tuition to Out-of-State Schools Tuition or transfer payments to school districts in other states for resident students
	9300 Tuition to Non-Public Schools Tuition or transfer payments to non-public schools for resident students
	9400 Tuition to Collaboratives Payments of assessments to member Collaboratives for administrative and instructional services in accordance with collaborative agreements.

Regular Education Out-of-District Tuition

Currently there are several alternative public school programs available across the commonwealth for students who do not attend the local district. The educational options for students are the School Choice program, Charter School Initiatives, Innovation Schools Initiative, and regional agricultural, vocational and technical schools. Below is an overview of the programs in which Brookline resident students have taken advantage of in the past. Due to the small numbers of students who attend these programs (less than 4 per year), reporting is not provided on a regular basis and only exists in this format. Below is a five-year history of the tuition assessments received by the Town of Brookline through the Cherry Sheet.

Innovation Schools

In January 2010, Governor Patrick signed education reform legislation forming “The Innovation School” model. It is projected to be cost-neutral with regard to the longer-term operation of the School Department. However, the school district must create a new line item appropriation, as the tuition is not charged against the Cherry Sheet as other state education initiatives are funded. The Town of Brookline after year one will receive \$6,800 in tuition dollars through Chapter 70 formula calculations. The first year there is no reimbursement. The School Department will have to annually budget for these expenses. The Innovation Schools receive their tuition dollars directly from the school district in the form of tuition payments. The tuition payments are not treated as an expense offset like Charter Schools.

Commonwealth of Massachusetts Virtual School (CMVS)

A Commonwealth of Massachusetts Virtual School (CMVS) is a public school operated by a board of trustees where teachers primarily teach from a remote location using the Internet or other computer-based methods and students are not required to be located at the physical premises of the school. Each CMVS determines what grade levels it will serve and what particular programs it will offer.

Cherry Sheet Tuition Assessments

The Town receives three types of tuition assessment for educating Brookline resident students. These are School Choice, Charter Schools, and Norfolk Agricultural Technical High School. While these amounts are not shown or reported in the School Department’s appropriation, the Town is responsible for the education of these students. All public schools are required to submit actual enrollment reports to

Department of Elementary and Secondary Education in October and March of the current year. These figures are used to calculate tuition rates for the current year. Any changes to enrollment figures and tuition rates will alter a district’s remaining assessments. It is unknown at this time what the final impact there will be for the FY21 budget. The town will not have confirmed FY21 enrollment until mid-February 2020. This section will be updated as information becomes available.

Special Education Assessment

The assessment is to partially reimburse the state for providing special needs education to children enrolled in state hospital schools.

School Choice

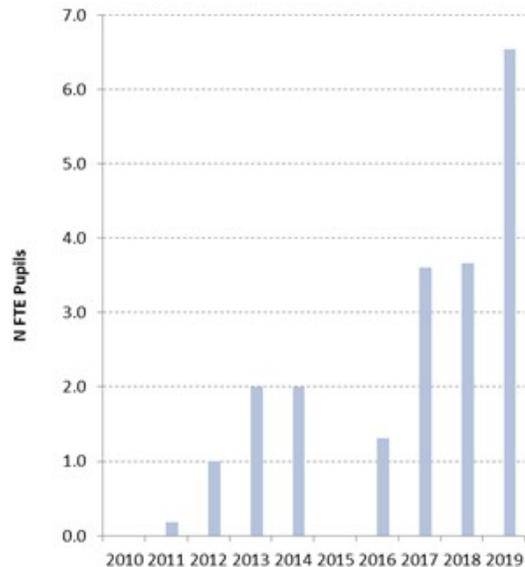
“The school choice program allows parents to send their children to schools in communities other than the city or town in which they reside. Tuition is paid by the sending district to the receiving district. Districts may elect not to enroll school choice students if no space is available.”

**Massachusetts Department of Elementary and Secondary Education
Office of District and School Finance**

School Choice Trends in Enrollment and Tuition

0046 BROOKLINE

FY	Receiving		Sending	
	FTE Pupils	Tuition	FTE Pupils	Tuition
2009	0.0	0	0.0	0
2010	0.0	0	0.0	0
2011	0.0	0	0.2	2,279
2012	0.0	0	1.0	5,000
2013	0.0	0	2.0	10,000
2014	0.0	0	2.0	13,400
2015	0.0	0	0.0	0
2016	0.0	0	1.3	8,829
2017	0.0	0	3.6	24,550
2018	0.0	0	3.7	24,757
2019	0.0	0	6.5	56,166



Charter Schools

“Charter schools are independent public schools designed to encourage innovative educational practices. Charter schools are funded by tuition charges assessed against the school districts where the students reside. The state provides partial reimbursement to the sending districts for the tuition costs incurred.”

Massachusetts Department of Elementary and Secondary Education

OFFICE OF DISTRICT AND SCHOOL FINANCE

Summary of Historical Sending District Charter School FTE, Tuition, and Reimbursements , FY96 to present*

Select your district using the drop down menu:

46 BROOKLINE	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20
FTE	4.00	3.60	3.00	3.00	3.73	3.03	7.00	3.27	3.30	2.00
Tuition	74,443	56,101	56,482	60,017	66,186	46,139	126,500	65,025	74,756	47,097
Facilities Aid	3,572	3,211	2,641	2,668	3,329	2,609	6,023	2,920	2,947	1,876
Transition & Other Aid	30,418	13,412	4,030	6,821	5,299	-5	67,542	(773)	7,958	955
Total Aid	33,990	16,623	6,671	9,489	8,628	2,604	73,565	2,147	10,905	2,831
Net Cost to District	40,453	39,478	49,811	50,528	57,558	43,535	52,935	62,878	63,851	44,266

* To view all fiscal years unhide columns D through R. Current fiscal year is sourced from March 2020.

Brookline has had students attending the following school districts whereby we have received assessments: Boston Renaissance Charter Public, Academy of the Pacific Rim, Edward Brooke Charter, and Prospect Hill Academy Charter.

Massachusetts Department of Elementary and Secondary Education

Office of District and School Finance

Projected FY20 FTE, Rates, and Tuition by Charter School and Sending District (PROJ)(d)

Cha Lea	Chalocsend	Charter School	Cam pus Lea	Campus Location	Send Lea	Sending District	FTE	TOTAL RATE
487	487049046	PROSPECT HILL ACADEMY	49	CAMBRIDGE	46	BROOKLINE	2.00	26,963

Tuition to Vocational Technical Education Programs & Agricultural Schools

- Norfolk County Agricultural High School (Norfolk Aggie)** - Norfolk Aggie tuition is assessed to the Town through the county assessment. Norfolk County Agricultural High School is a public high school that currently enrolls over 500 students from the 28 towns of Norfolk County as well as more than 40 out-of-county towns. The school is situated on 365 acres in Walpole and offers specialty training to students who are interested in the following: Animal and Marine Science, Veterinary Science, Marine Science, Dairy and Livestock Management, Research and Animal Technology, Equine Science, Canine Science, Plant Science and Environmental Science, Forestry, Horticulture, Landscape Management, Natural Resources, Mechanical Technology, Diesel and Heavy Equipment Operation and Repair, and Welding and Woodworking.

9000 Series	Programs with Other School Districts	FY2019 Budgeted Head Count	FY2019 Budget	FY2020 Budgeted Head Count	FY2020 Budget	FY2021 Head Count	FY2021 Projection
9100	Tuition to Mass. Schools	1	\$ 116,742	1	\$ 44,376	1	\$ 48,034
9200	Tuition to Out-of-State Schools	3	\$ 165,316	4	\$ 254,326	2	\$ 306,642
9300	Tuition to Non-Public Schools	46	\$ 4,187,258	62	\$ 5,417,857	61	\$ 5,823,844
9400	Tuition to Collaboratives	3	\$ 62,407	3	\$ 133,568	3	\$ 141,188
Total		53	\$ 4,531,723	70	\$ 5,850,127	67	\$ 6,319,708
Operating Budget					\$ 4,080,313	\$ 328,581	\$ 4,408,894
Circuit Breaker					\$ 1,769,814	\$ 141,000	\$ 1,910,814
Funding Allocated					\$ 5,850,127	\$ 469,581	\$ 6,319,708
(under)/Over Budget					\$ -		\$ (0)

Tuition is monitored by the Deputy Superintendent for Student Services and the Finance Manager of the Office of Student Supports. As a student’s intensive needs become identified and services within the district cannot provide for that student, then the Out-of-District Coordinator is called to meet with the team and parents to plan for the student’s placement in the least restrictive placement/environment.

The Out-of-District Coordinator is the liaison for the student’s IEP and provides case management of all aspects of the student’s program. Costs are monitored through Deputy Superintendent for Student Services.

- Tuition rates for approved special education private day and residential schools are set by the Operational Services Division (OSD) of the Commonwealth of Massachusetts Executive Office of Administration and Finance.
- Each year the OSD provides an estimated rate of inflation, which is used to project tuition for approved special education private day and residential placements. More information is available at the OSD Website: <https://www.mass.gov/special-education-pricing>
- With the exception of extraordinary relief or other unusual circumstances, private schools may request the additional increases in the form of special circumstances or program reconstruction. Private schools must provide the required notice to public schools by Oct. 1 for the following fiscal year. The State can approve increases anytime during that following fiscal year. In such instances, the requested increase is budgeted.
- Collaborative tuition increases are recommended to the Collaborative Board of Directors based on program costs and budget presentations. The Collaborative Board of Directors is made up of member district Superintendents. For the last several years, a 4% increase has been assumed for Collaborative tuitions. Additionally, a 4% increase has been assumed for OSD approved out of state private schools as the rate increases are not set by OSD but rather the respective state agency where the school is located.

- Collaborative programs also tuition-in students from non-member districts. Non-member districts pay a higher tuition than member districts. Brookline will only send students to non-member collaboratives, when it is programmatically appropriate.
- The FY19 Initial Circuit Breaker Reimbursement Calculation (based on FY2018 eligible student claims) is \$1,769,814. It represents the Commonwealth's projected reimbursement rate of 72% of the net claim of \$2,458,085. The estimate is based on the number of students who are in school until graduation or turn 22 prior to the end of the school year. The estimate reflects actual time spent in the program and tuition paid. Not all student placements meet the circuit breaker threshold for reimbursement. The reimbursement rate, set by DESE, is also variable.

The FY2021 Budget Projection includes the following known issues:

1. The Annual OSD (Operational Services Division) rate increase for Out of District Tuitions, which for FY2021, is 2.72%.

OSD is responsible for setting tuition prices for more than 200 approved special education programs in approximately 100 private schools. This price setting is necessary to accommodate students with needs that cannot be met by their current school district.

2. Students included for the FY2021 projection are as of November 1, 2019.

What the FY2021 Projection does not include:

1. This projection does not include students who may be placed out between now and March 31, 2020. The Move-In Law requires districts of the sending community to pay for placements in those instances where a child moves after April 1st, for the balance of the existing year and for the next fiscal year. So, for example, if a family from Weston moves to Brookline on April 7th, Weston would be responsible for that student's Out of District Tuition for the remainder of FY2020 and the entirety of FY2021. If that family moves here on March 27th, we are responsible for FY2021.
2. This projection does include increases related to Program Reconstruction that we have been notified of as of November 1, 2019. Program Reconstruction allows private schools an opportunity to apply to reorganize their existing programs, usually to increase staffing and services in order to address changing student needs. There are 8 students in programs currently under review for Reconstruction. The department may not be informed that these programmatic - and the financial impact of those - changes have been approved until July 1st.
3. This projection does not include a provision for Unilateral Placements or Potential Settlements. The likelihood of the department paying that amount is remote, but there probably will be some additional agreed to settlements that will affect this number. The Reserve Account has been used to offset these in the past. These students will be continuously monitored with the Interim Out of District Coordinator and the Directors so that the department can plan accordingly.

4. This projection does not include a provision for students currently in 'In-House Programs' that might disrupt and require placement in an Out of District Program. Generally, these costs have been mitigated by identifying students who are coming back from Out-of-District Programs into the schools. Because this is a number that is constantly in flux, it's going to take some time to benchmark effectiveness at bringing kids back in house. Additionally, the department has been able to absorb 45 day placements, but that number fluctuates greatly from year to year.

The FY2021 Budget Projection shows a moderate increase in line with the known increase in the OSD approved rates, and program reconstruction rates based on known filings. This is a realistic budget request based on the factors listed above.

Section II – Summary of Revenues

Program	FY20 STM Approved Budget	FY21 Town/School Partnership 5/29/20	FY21 Balanced Budget Recommendation
Revenue			
General Fund Approp.	\$ 117,385,106	\$ 118,998,990	\$ 1,613,884
Tuition & Fees	\$ 717,523	\$ 505,000	\$ (212,523)
Circuit Breaker	\$ 1,769,814	\$ 1,971,547	\$ 201,733
Total Revenue	\$ 119,872,443	\$ 121,475,537	\$ 1,603,094
			1.34%

While Section I of this overview details the major drivers and priorities of the entire budget, this section summarizes the most significant year-to-year changes in revenues. Full detail of expenditures can be found in the Program Budget Detail section.

1. Town/School Partnership Revenue: **Estimated \$1,613,884**
 - a. The final and much smaller portion of the revenue reduction is the school portion of budget growth in all Town shared expenses as part of the Town/School Partnership Document.
2. School Department Revenue Changes since 4/23/20: **Net \$(10,790)**
 - a. Materials Fee/Tuition Account: No change in Revenue Projection (-\$212.523)
 - b. Circuit Breaker: Updated to Budget Current Year (FY19) Reimbursement (+\$201.523)

The Public Schools of Brookline budget request from the Annual Town Meeting for FY 2021 is \$118,988,990, an increase of \$1,613,884 (1.37%) over FY20 STM vote. The revenues available to fund the budget request are \$4,462,148 less than is needed.

School Department Revenues

The terms below define the lines in the above revenue chart that will be completed after the May 29,

2020, Town partnership Meeting.

General Fund Appropriation: As of April 4, 2019, estimated amount of funds received as part of the Town/School Partnership is \$6,770,956 greater than FY19 STM vote. Sources of funds are tax levy and additional local receipts. We anticipate this number to increase as Chapter 70 and GIC rates become known.

Tuition and Fees: The Materials Fee program began in the 1960s. The School Committee policy publishes rates back to 1987-1988 school year. It is a program that has been maintained and currently provides for 199 students of Town and School Department employees. All participating employees use payroll reduction for material fee payments unless they choose to pay in full in advance of the school year. FY2020 revenue is projected at \$717,523. In addition, the district is part of an one year SEVIS/Student Exchange Program and charges tuition for two students per year.

Circuit Breaker Funding: The Circuit Breaker reimbursement for FY 2019 (\$1,769,814; 72% reimbursement rate) serves as the base to calculate the FY 2021 revenue estimate. This practice began in FY 2019, when the district removed an additional \$500,000 from the Circuit Breaker account to reflect that all prior year reserves have been expended in balancing the FY 2017 and FY 2018 budgets. All reserves in this account have been expended and will be applied in the fiscal year received.

Circuit Breaker funds are recurring funds, but are subject to change each fiscal year. The amount per student that qualifies for reimbursement can change dramatically from one year to the next depending on prior-year actual circuit breaker eligible expenditures. The other change that occurs is the funding level provided by the legislature to this account. During FY 2019 we started with an estimated 65% Reimbursement rate to receiving additional funds and ending the fiscal year at 72%.

CIRCUIT BREAKER REIMBURSEMENT HISTORY									
Claim Year	Reimb Year	Eligible Students Claimed	Total Eligible Expenses	Foundation	Net Claim	Avg Claim Rate	% Change in Net Claim (\$)	% Reimb	Total Adjusted Reimb
FY19	FY20	80	6,106,791	3,548,880	2,557,911	31,974	4.06%	75.00%	1,918,448
FY18	FY19	83	6,030,671	3,572,586	2,458,085	29,615	-5.38%	72.00%	1,769,814
FY17	FY18	93	6,519,559	3,921,554	2,598,005	27,936	1.16%	72.10%	1,873,044
FY16	FY17	69	5,134,386	2,891,700	2,242,686	32,503	1.09%	73.16%	1,640,674
FY15	FY16	76	5,230,933	3,166,772	2,064,161	27,160	-7.25%	75.00%	1,548,121
FY14	FY15	73	5,227,622	3,002,080	2,225,542	30,487	-21.04%	73.56%	1,637,136
FY13	FY14	86	6,282,474	3,463,776	2,818,698	32,776	-1.84%	75.00%	2,114,026
FY12	FY13	86	6,179,472	3,307,860	2,871,612	33,391		74.60%	2,142,130

History: During FY 2004, the Circuit Breaker Reimbursement Program replaced a program referred to as the 50/50 account, where the State paid 50% of the residential tuitions directly to the residential school in which the placement had been made, and the school district paid the remaining 50%. The current program reimburses a school district for students with disabilities who require individual education program (IEP) services that cost greater than four times the statewide foundation budget. In FY 2005, the

state shifted from a pay-as you go reimbursement program for residential tuitions to a broader-based, but still-partial, special education reimbursement program. The 2004 legislation expanded the types of expenditures eligible for reimbursement. Each year, there is a potential for a change in the percentage of reimbursement utilized by the State within the Special Education Circuit Breaker Account.¹

Subject to appropriation, the state's Circuit Breaker Fund reimburses the school district, for up to 75% of in-district and out-of-district student costs, which exceed four times the per pupil foundation amount. The state sets this amount annually as part of the annual state budget deliberations. Historically, the reimbursement rate has been between 35-75%. The district does not know the actual reimbursement rate for the fiscal year until after it submits its annual claim in July for the prior fiscal year expenditure activity. Eligible costs include instructional services, various types of therapies, and specialized equipment. Circuit Breaker specifically excludes transportation and building infrastructure costs. All Circuit Breaker funds received go into the Circuit Breaker Revolving Account, do not require further appropriation, and must be expended by the following June 30th.

Revolving Fund Reimbursement²: This revenue offset has been removed for FY 2020. It was intended to cover overhead costs associated with supporting fee-based programs operating under the authority of the School Committee. However, these costs should be charged directly to the specific revolving fund that generates the expense in accordance with statutory regulations and the Division of Local Services, Department of Revenue. The district has removed this as an offset and moved expenditures in the operating budget to these funds for direct payment by the fund.

Other Revenue: Other Revenue was supposed to reflect the offset of one-time and non-recurring revenue that can be applied to the upcoming fiscal year. However, one-time funds are general fund receipts in accordance with statutory regulations and the Division of Local Services, Department Of Revenue, and should not be in any type of School Committee account under the rules provided by Chapter 71 or Chapter 40 and 44. If there are identifiable funds to which the expenditures should be charged, the expenses are noted as being transferred to those funds. FY 2020 removed this line as an offset as there are no revenue sources identified. Should one-time funds be received, they will be handled as required and outlined by municipal finance law.

¹A Primer on Financial Aspects of Special Education <http://www.doe.mass.edu/finance/circuitbreaker/finance.html>

² Revolving Funds for School Department Programs
<http://www.mass.gov/dor/docs/dls/training/revolvingfundchartschool.pdf>

ADVISORY COMMITTEE'S RECOMMENDATION

Background

The revised FY 21 Financial Plan (Budget) was completed on June 2nd. This preliminary report has been submitted in order to meet the June 4th deadline for the Combined Reports, and it is based on an initial review of the revised Budget by the Advisory Committee. A final report and recommendation will be included in the Supplemental Mailing.

A budget message typically comes from the head, not the heart. But we begin with a message from the heart. The budget is the result of a lot of hard work and a lot of anguish - anguish over what to spend our money on, and what not to spend it on.

As you will see, this Budget makes choices that lean in the direction of keeping Town departmental services largely intact and minimizing layoffs and furloughs. The uncertainty around how the Public Schools of Brookline will operate has caused its own special form of anguish, but we expect that the number of layoff notices sent at the end of May significantly exceed the number of jobs that will actually be lost. The Budget also maintains a modest level of cash reserves in recognition of the likelihood that FY22 revenues will be relatively weak.

This Budget is the result of a lot of Zoom meetings, and after overhearing one of them, one resident asked, "Is Brookline going to make it through this? Will everything just fall apart?" The answer is "Yes", and "No." Yes, Brookline will make it through, and No, what the people of Brookline have built is not going to fall apart. This Budget is a prescription to keep our schools and our town operating through an economic and social crisis created by a pandemic. But we will operate on an admittedly uncomfortable diet.

The revised FY 21 Budget projects a \$12.1 million shortfall in the revenue we expected to have when the original FY21 Budget was published on February 15th. It is important to understand the assumptions on which the Budget is built; how funds have been shifted from longer-term priorities; and what we have currently not been able to fund.

Assumptions

The FY21 Financial Plan published in February projected \$358 million in total revenue, a 6.8% increase over FY20. Part of the increase came from a property tax increase approved by the 2018 override, part came from the annual increase in property values, new construction and the Proposition 2-1/2 tax increase, and part came from an expected increase in State Aid, especially for education.

The Covid-19 shutdown of retail stores, restaurants and travel changed expectations sharply. Brookline relies heavily on non-property tax revenue, which comes primarily from State Aid and from local sources. The Town Administrator and his staff developed three scenarios to estimate post-Covid revenue for FY21

- Best case: \$6 million decline vs. the February 2020 revenue projection

- Middle case: \$12.1 million (following the Select Board's vote to increase parking meter fees)
- Worst case: \$19 million

The Town Administrator's middle case scenario includes a \$3,336,225 decrease in State Aid and a reduction in local receipts of \$8,823,190 = \$12,159,415. The scenario assumes that 100% of property taxes will be collected (which is the case over the long run, even if there are defaults in a given year).

At the end of March, the Advisory Committee's Subcommittee chairs used a model of Brookline's revenue to produce a range of estimates clustered around a \$12 million shortfall. Some Subcommittee chairs assumed a decline in property tax receipts, and various individuals had different assumptions about the decline in State Aid. Despite the differences in methodology, the Advisory Committee Subcommittee chairs and the Town Administrator produced similar projected revenue numbers for a middle case scenario.

The following summary is from the presentation made to the Select Board and viewed separately by the Advisory Committee on June 2, 2020.

Projected Budget Shortfall: \$12,159,415 (from prior FY 21 Budget)

- State Aid reduced by \$3,336,225
- Local Receipts reduced by \$8,823,190
- Capital Budget Reduced by \$3.5 million
- School Classroom Capacity Fund (leases) reduced by \$2.5 million
- Park Renovation Projects deferred \$1.3M (\$160K savings in FY21)
- Further Consideration of all projects in Fall 2020

Departmental Operations

- School Department budget reduced by \$4,362,148 (-3.5%)
- Municipal Departments reduced by \$3,342,341 (-4.1%)

Reserves and Long-Term Obligations

- Use of One-Time Funds Not Recommended for “Year 1” of the Covid-19 impact
- OPEB Annual Increase Deferred (\$250,000)
- Stabilization Fund contribution diverted to the Annual Reserve Fund
 - Note: OPEBs are the largely unfunded obligations for health care insurance to retired employees. Brookline sets funds aside each year to fund these obligations. The FY 20 amount was \$4.8 million, due to be increased by \$250,000 in FY21.
 - In keeping with the strategy of not using every possible source of funds in the first year of what could be a multi-year problem, the Town Administrator recommends deferring that \$250,00 increase, but making the \$4.8 million contribution.
 - *The Advisory Committee has not yet taken a formal vote, but in our discussion of the recommendation we wanted to make, the consensus was to reduce the base \$4.8 million by \$2.4 million and using those funds for operating expenses.*
- Relying Upon Federal Funding (FEMA, CARES, CDBG)
 - The federal CARES Act will provide Brookline with \$5.2 million to cover unbudgeted Covid-19 costs. That will offset the over \$1 million for direct Covid-19 costs that has already been transferred by the Advisory Committee from the Annual Reserve fund to Town departments.

Projected changes in revenue from local sources of non-property tax revenue

Revenue from sources other than property taxes account of 21% of Brookline’s total revenue. Those sources include taxes on meals, hotel occupancy and marijuana sales; fees for permits, parking meters, licenses, etc.; interest earned; and payments by non-profit organizations in lieu of property taxes (“PILOT” agreements).

The table below lists the “local sources” of revenue and compares the original FY21 budget with the revised budget submitted on June 2nd.

Revenue Source	FY20 Budget	Orig. FY 21 Budget	6/2 Revised FY21 Budget	Variance	Percent	Note
Auto excise	\$ 6,142,644	\$ 6,265,497	\$ 5,952,222	\$ 313,275	5%	
Local option taxes	\$ 3,460,310	\$ 5,243,495	\$ 2,871,748	\$ 2,371,747	45%	Hotels, meals, marijuana
Licenses & Permits	\$ 1,170,775	\$ 1,180,775	\$ 952,259	\$ 228,516	19%	Alcohol, Victualler, etc.
Parking & court fines	\$ 3,300,000	\$ 3,300,000	\$ 1,650,000	\$ 1,650,000	50%	
General gov't	\$ 4,564,268	\$ 5,317,930	\$ 5,052,033	\$ 265,897	5%	Building permits, etc.
Interest income	\$ 974,977	\$ 999,351	\$ 749,513	\$ 249,838	25%	
PILOTs	\$ 1,010,509	\$ 1,530,719	\$ 1,377,647	\$ 153,072	10%	
Trash fees	\$ 2,850,000	\$ 3,598,654	\$ 3,224,327	\$ 374,327	10%	Assume mid-yeear increase
Parking meters & other fees	\$ 7,646,736	\$ 8,438,378	\$ 5,221,860	\$ 3,216,518	38%	Parking meteers & other fees
Total	\$ 31,120,219	\$ 35,874,799	\$ 27,051,609	\$ 8,823,190	25%	Impact on Local Sources

That \$8,823,190 plus the anticipated decrease in State Aid of \$3,336,225 totals the \$12,159,415 decrease in projected FY21 revenue vs. the original FY21 budget.

Impact on Municipal Operations

Departmental Budget Reductions

Departmental Expenditures	Reduction	Notes
1. Select Board	\$37,514	Continued furlough of PT position, professional development
2. Human Resources Department	\$44,300	Professional development, consulting services
3. Information Technology	\$43,975	Intern program, reduction in services
4. Diversity, Inclusion, and Community Relations	\$23,750	Reduced programing
5. Finance Department	\$188,160	Reduced cc transactions, 1 Vehicle, postage, software service
6. Legal Services	\$106,140	Reduced general consulting, claims and settlements
7. Advisory Committee		
8. Town Clerk	\$9,450	Misc. supplies and overtime
9. Planning & Community Development	\$125,423	1.5 Vacancies, delay filling Sustainability position
10. Police	\$506,412	2 Continued furlough of 2 FT positions, 1 Vacancy, reduced equipment, & training
11. Fire	\$424,894	1 Vacancy, reduced equipment and supplies

12. Building	\$261,980	1 Vacancy, reduced repair and maintenance funds
13. Public Works	\$676,647	3 Vacancies, reduced capital outlay, supplies and services
14. Library	\$388,535	1 Vacancy; continued furlough of 9.84 FTE part-time positions for part of the year, supplies
15. Health	\$30,000	1 Vehicle
16. Veterans	\$34,600	Intern program, reduction in services
17. Council on Aging	\$94,037	Continued furlough of part time positions allows staff to shift to grants
18. Recreation	\$110,934	Shift 2 positions to Revolving Fund
Department-Wide		
Leased Computer Savings	\$20,000	
Utility Savings	\$86,175	Recent gasoline/diesel bids
Group Health Reduced enrollment	\$129,415	Vacant position reductions
Total Reductions	\$33,342,341	Total staff vacancies & reductions: 21.86 FTEs

Capital Budget changes – all financed from revenue, not bonds

Description	Orig. Amount	Reduction	Notes	Recommended by AC capital subcommittee?
Garage Floor Sealants	\$215,000	(\$215,000)		Y
Traffic Calming	\$81,500	\$81,500	Alt. source of funds	N
Parking Meter Upgrade	\$322,000	(\$106,080)	Meter upgrade will provide revenue	Y
Street Rehab	\$2,649,916	(\$370,420)	Alt. source of funds	N
Robinson Playground	\$1,150,000	(\$1,150,000)		Y
Schick Park	\$160,000	(\$160,000)		Y
Town/School Grounds Rehab	\$165,000	(\$10,000)		N
School Furniture	\$70,000	(\$70,000)		Y
HVAC Equipmant	\$150,000	(\$50,000)		N
Oil tank removal	\$100,000	(\$100,000)		Y

Classroom Capacity (Leases)	\$6,573,751	(\$2,500,000)		N
Total		(\$3,500,000)		

Reserves

See the appendix for a detailed description of reserves and the constraints around using them.

The Advisory Committee recommended that the \$2 million contribution to the Stabilization Fund be split into two parts: \$1 million for the Annual Reserve Fund, which can be appropriated for unanticipated expenses with little delay because it only requires a majority vote by the Advisory Committee; and \$1 million allocated but not actually appropriated to the Stabilization Fund. The appropriation could be made in November Town Meeting if that appears warranted.

The Town Administrator’s budget does split the \$2 million as we recommended, but it appropriates the \$1 million to the Stabilization Fund at the start of the fiscal year (July 1).

As noted above, we recommend reducing the OPEB contribution to \$2.4 million, with the balance of \$2.4 million going to the operating budget.

We cannot change our annual contribution to reduce unfunded pension obligations, but looking forward to FY22, there may be an opportunity to temporarily reduce the \$26.6 million contribution to pension liabilities. Brookline is on track to completely fund those obligations by 2030, but we are not required to do so until 2040.

Free Cash

The Advisory Committee has not yet reviewed the proposed use of free cash. The Town Administrator’s plan allocated free cash from FY20 as follows:

Free Cash Use	Amount
Operating Budget Reserve (“Annual Reserve”) (25% of the Operating Budget Reserve, in line with Brookline financial policies)	\$699,726
Unreserved Fund Balance (left unappropriated in free cash)	\$2,600,000
Stabilization Fund (split now between the annual reserve and the Stabilization Fund)	\$2,000,000
Liability Reserve (1% of prior year’s revenue, per financial policies)	\$50,529
Capital Improvements (the normal use of a substantial portion of free cash)	\$4,198,356
Affordable Housing Trust (to return the fund balance to \$5 million)	\$726,549

Subtotal	\$10,275,160
Amount available for Special Use: Additional Capital Improvements Plan items	\$4,117,109
Total	\$14,392,269

Impact on the School Budget

As of June 4th, the date the Combined Reports were due, the Advisory Committee had not reviewed the School Department’s budget. It was presented to the Advisory Committee’s Schools Subcommittee on June 3rd. The recommendation will be included in the Supplemental Reports. The School Committee has been working with a top-level budget number that is \$6,280,608 below the February 2020 working number, which represents a 5.1% reduction from February. Since the Select Board increased parking meter rates, the reduction will be somewhat smaller – probably on the order of \$5,800,000.

School costs have risen by about 5% since last year, almost entirely driven by increases in salaries, which account for 87% of the department’s budget.

Meanwhile, the Schools have had no guidance from the State as to what school will look like in the fall. Will classrooms reopen? Will there be a hybrid classroom + online model? What will it cost to implement a different model? What summertime teacher training will be needed? Who will pay for that? The earliest the School Committee expects to receive State draft guidelines is mid-June, with final guidance not coming before July. This will have a substantial impact on the requirements and choices available to Brookline schools.

The Public Schools’ contracts with its teachers require that notice of layoffs for the following school year be sent no later than May 30th. Given the uncertainty of what lies ahead, the School Department issued layoff notices to 300 staff members because the May 30th deadline forced notices to be sent broadly in order to ensure that notice was given to all individuals who could ultimately be affected under all reasonable scenarios. It is likely that fewer staff members will actually lose their jobs. Nonetheless, with fewer teachers, it follows that there will be cuts in what the Schools can offer. (The Town departments have furloughed about 200 employees.)

The Advisory Committee has pointed out an alternative to reducing staff is to postpone salary increases. That would require the agreement of the unions who represent employees. Another possibility is for the unions to agree to reduce the 83% share that Brookline pays for employee health care premiums, the savings from which could be applied to the Salary Account.

In the absence of a decrease in costs, some level of School – and teacher -- staff reduction appears to be inevitable.

Appendix: An Explanation of “Unassigned Funds”

There have been a number of questions about the Brookline’s unassigned funds – the \$26.6 million on the Town’s balance sheet at the at the end of the last fiscal year (on June 1, 2019).

Here’s a breakdown of that number:

Stabilization Fund	\$6,772,869
Free Cash	\$14,392,269
Receivables	<u>\$5,479,679</u>
Total	\$26,644,817

Receivables are money the Town is owed. Ultimately we will collect some, but not all of it. It’s not cash, and it can’t be spent any more than someone could spend the IOU they might have from a deadbeat brother-in-law.

The Stabilization Fund is Brookline’s “rainy day fund”. It takes a 2/3rds majority of Town Meeting to take money out of the fund. There are restrictions on use of the funds. No more than \$1 million can be spend in any one year. The Stabilization Fund has \$2 million less in it than the bond rating agencies recommend for Brookline. Withdrawing funds puts our favorable bond rating at risk, which would mean higher interest costs for the school construction projects that are in the pipeline.

The February version of the Town budget included a \$2 million payment into the fund. The revised budget reduces that by \$1 million. The Advisory Committee has suggested approving that amount but not actually appropriating the money until November Town Meeting, when the impact of Covid-19 will be clearer. If the funds are needed elsewhere, they could be diverted by Town Meeting without passing through the Stabilization Fund.

Free Cash is the often hardest concept to wrap one’s head around. We have a \$325 million-plus budget, and at the end of a typical year, some of that money will remain unspent. For example, if a staff position becomes vacant and it’s not filled, the unused funds set aside for that person’s salary end up in free cash at the end of the year.

The unexpended balance is recycled to fund part of the next year’s budget, so while it’s free on the last day of the fiscal year (June 30), it is allocated for use in the fiscal year that the starts the next day.

- A substantial portion is used to fund the following year’s capital projects – parks, pedestrian and bike improvements, etc.
- A portion is used to bring the Affordable Housing Trust Fund up to its target level.
- Another slice goes into the reserve fund that the Advisory Committee uses when ether are extraordinary and unanticipated expenses during the year. The \$500,000 for removing the Davis Path Footbridge over the D Line is an example; snow removal costs beyond what was budgeted are another example.
- A portion amount is held back to start of the next year’s free cash account, because the amount of cash left over from operations at the end of each fiscal year varies from

year to year, so a base amount is retained in the free cash account. As of this writing, the FY21 budget holds back \$2.6 million in free cash.

Free cash is “one-time” money, rather like a year-end bonus. Depending on the year, bonuses varies significantly, so using that remaining \$2.6 million in “one-time” money for operating expenses is a mistake. It would be like relying on one’s highly variable bonus to pay the mortgage or the rent, rather than living within one’s base income. And we’re headed into a difficult period; we expect free cash at the end of the coming year to be far below the \$14.4 million that was available for allocation at the start of FY20.

Benjamin Disraeli said, “There are three kinds of falsehoods – lies, damned lies, and statistics.” Sometimes accounting data is the fourth falsehood. The \$26.6 million on the books as of a year ago does not mean we have (or ever had) \$26.6 million in a piggy bank. The number is technically correct as an accounting of our assets on that day, but it far exceeds the actual reserves available for the FY21 budget.

And using the reserve funds that do exist to cover this year’s operating expenses means that they will be depleted at the end of FY21, a year in which we expect to generate far less in free cash. That will put us in a second, possibly worse budget crunch for the fiscal year that starts on July 1, 2021.

For more on the recommended uses of free cash, click on this link to the Commonwealth of Mass. Department of Local Services:

<https://www.mass.gov/files/documents/2017/09/09/freecash.pdf>

ARTICLE 8

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board conducted multiple policy discussions with the Town Administrator as he prepared revisions to the initial FY 2021 Budget. Select Board Chair Bernard Greene and Member Ben Franco represented the Select Board at the Town School Partnership meetings with Advisory Committee and School Committee representatives. At these sessions, various revenue projection scenarios for FY 2021 and beyond were reviewed, with the Town Administrator settling on a \$12.1 million revenue loss for FY 2021 compared to the initial Budget submitted in February. The Partnership Committee and the Select Board discussed many strategies to mitigate the impacts of reductions in staffing, programs and services that would result from this loss of revenue. It was acknowledged that the budgetary impacts from the COVID-19 crisis will likely extend into FY 2022. As a result, the Town must be careful not to use all of its options and budgetary flexibility in FY 2021 or the budget impacts in FY 2022 could become insurmountable.

The Town Administrator submitted a revised FY 2021 Budget on June 1 (see Supplemental Budget Message previously included in the Combined Reports) that reduced capital expenditures by \$3.5 million and allocated the remaining shortfall among the School and Municipal department operations based on the same relative share of the initial FY 2021 Budget submitted in February. On June 2, the Board received a presentation on this revised Budget and convened a public hearing a week later. At the public hearing on June 9, and in the several days that followed, the Board heard strong and persistent public input to enact "Police Defunding" in the wake of the Floyd murder and other incidents. At its meeting on June 16 the Board considered two separate proposals to reduce funding from the Police department budget and reallocate it to other purposes. The first proposal, initiated by Select Board Member Raul Fernandez, sought to reduce the Police budget by \$361,943 and reallocate it to the School department budget and for a new Community Engagement Specialist in the Office of Diversity Inclusion and Community Relations (ODICR). This proposal failed to receive a majority vote of the Board. A second proposal offered by Select Board Member John VanScoyoc did pass. This proposal sought to reduce the FY 2021 Police department's overtime accounts by 20% and to reallocate the resulting \$166,066 to restore budget cuts made in various social service departments including Public Health, ODICR, Veterans and Council on Aging.

The Select Board will carefully follow the Advisory Committee's final deliberations and decisions on the FY 2021 Budget and consider proposing amendments in those areas that differ from the Board's recommendations.

The Select Board Voted 4-1 In favor of the Town Administrator's recommended budget with the exception that they are in agreement with the Advisory Committee's condition

that the \$2 million of the OPEB contribution not be transferred into the trust until December 1, 2020.

ROLL CALL VOTE:

Aye:

Heller,

Greene

Hamilton

VanScoyoc

No:

Fernandez

The motion is as follows:

VOTED: To approve the budget for fiscal year 2021 set forth in the attached Tables I and II, to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

1.) TRANSFERS AMONG APPROPRIATIONS: Transfers between the total departmental appropriations separately set forth in Tables 1 and 2 shall be permitted by vote of Town Meeting or as otherwise provided by Massachusetts General Laws Chapter 44, Section 33B(b). Within each separate departmental appropriation, expenditures shall be restricted to the expenditure object classifications set forth in the recommendation of the Advisory Committee, and voted by the Town Meeting, for each department, subject to the following exceptions:

- A) Expenditures within the appropriation for the School Department shall not be restricted.
- B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Select Board and Advisory Committee:
 - i) Transfers from the appropriation for the capital outlay object classification to any other object classification.
 - ii) Transfers to the appropriation for the personal services object classification from any other object classification.
 - iii) Any transfer which has the effect of increasing the number of positions or the compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.

- v) Transfers within the Department of Public Works from the Parks Division to any other purpose.
 - vi) Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.
 - vii) With respect to item # 23d that \$2M of appropriated funds not be transferred to the trust until 12/1/2020
- C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.
- D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Select Board, and upon the condition that written notice of each such approval shall be submitted promptly to the Advisory Committee and Town Comptroller.

2.) PROCUREMENT CONTRACTS AND LEASES: The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2021 budget, and to solicit and award contracts for terms of not more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Select Board.

3.) ALLOCATION OF SALARY ADJUSTMENTS: Appropriations for salary and wage adjustments (Item #20) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Select Board shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personnel Services Reserve (Item #19), which shall be used to fund costs incurred over the course of the fiscal year pursuant to employee contracts and/or established personnel policies. The Town Comptroller shall include an accounting of all transfers made from this reserve in the Annual Financial Report.

4.) STIPENDS / SALARIES OF ELECTED OFFICIALS: The stipends of members of the Select Board shall be at the rate of \$4,500 per year for the Chair and at the rate of \$3,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of \$114,585 effective July 1, 2020, plus any adjustment approved by vote of the Select Board. The Town Clerk shall pay all fees received by the Town Clerk by virtue of his office into the Town treasury for Town use.

5.) VACANT POSITIONS: No appropriation for salaries, wages, or other compensation shall be expended for any benefit-eligible position which has become vacant during the fiscal year unless the Select Board, at an official meeting, has determined that the filling of the vacancy is either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.

6.) GOLF ENTERPRISE FUND: The following sums, totaling \$1,881,691 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

Salaries	\$689,557
Purchase of Services	\$264,901
Supplies	\$340,485
Other	\$11,500
Utilities	\$103,414
Capital	\$95,800
Debt Service	\$137,038
Reserve	<u>\$25,000</u>
Total Appropriations	\$1,667,695
Indirect Costs	<u>\$213,996</u>
Total Costs	\$1,881,691

Total costs of \$1,881,691 to be funded from golf receipts with \$213,996 to be reimbursed to the General Fund for indirect costs.

7.) WATER AND SEWER ENTERPRISE FUND: The following sums, totaling \$29,239,144, shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	<u>Water</u>	<u>Sewer</u>	<u>Total</u>
Salaries	2,390,649	449,001	2,839,650
Purchase of Services	172,398	149,000	321,398
Supplies	108,220	16,000	124,220
Other	13,900	3,180	17,080
Utilities	91,561	0	91,561
Capital	200,300	226,269	426,569
Intergovernmental	7,522,794	13,750,203	21,272,997
Debt Service	436,709	1,279,212	1,715,921
Reserve	<u>0</u>	<u>0</u>	<u>0</u>
Total Appropriations	10,936,531	15,872,865	26,809,396
Indirect Costs	<u>1,914,874</u>	<u>514,873</u>	<u>2,429,747</u>
Total Costs	12,851,406	16,387,738	29,239,144

Total costs of \$29,239,144 to be funded from water and sewer receipts with \$2,429,747 to be reimbursed to the General Fund for indirect costs.

8.) REVOLVING FUNDS:

- a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed \$4,200,000.

- b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed \$225,000.

- c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed \$100,000.

- d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed \$30,000.
- e.) The Library Director is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Copier Program. Annual expenditures from the fund shall not exceed \$30,000.
- f.) The School Department is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the School bus Program. Annual expenditures from the fund shall not exceed \$75,000.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of \$5,460,368, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

10.) SNOW AND ICE BUDGET: The sum of \$584,810, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article 8.

11.) INTERFUND TRANSFERS: In order to fund the appropriations voted for the various departments itemized on Table 1, the Town Comptroller is authorized to make the following interfund transfers:

Cemetery Sales Special Revenue Fund [to the General Fund for the Department of Public Works]	\$ 100,000
Recreation Revolving Fund [to the General Fund for benefits reimbursement]	\$471,027

12.) BUDGETARY REPORTING: The Town Comptroller shall provide the Advisory Committee with a report on the budgetary condition of the Town as of September 30, December 31, March 31, and June 30, within 45 days of said dates. This financial report shall include a summary of the status of all annual and special appropriations voted in this article; a report on the status of all special appropriations voted in prior years which remain open at the reporting date; and a summary of the status of all revenues and inter-fund transfers which have been estimated to finance the appropriations voted under this article.

13.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 35 through 69, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #64 - 69, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

Appropriate sums of money for the following special purposes:

- 36.) Appropriate \$0, to be expended under the direction of the Building Commissioner with any necessary contracts over \$100,000 to be approved by the Select Board for repairs to garage floors. **NOT MOVED**
- 37.) Appropriate \$60,000, to be expended under the direction of the Building Commissioner for the rehabilitation of Town buildings.
- 38.) Appropriate \$450,000, to be expended under the direction of the Fire Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for replacement of the fire station alerting system.
- 39.) Appropriate \$900,000, to be expended under the direction of the Police Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.
- 40.) Appropriate \$81,500, to be expended under the direction of the Commissioner of Public Works, with the approval of the Select Board, for traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Select Board on a semi-annual basis. To meet the appropriation transfer \$81,500 from the Parking Meter Fund.
- 41.) Appropriate \$125,000, with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for bicycle access improvements.
- 42.) Appropriate \$216,000 with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for parking meter technology upgrades. To meet the appropriation transfer \$216,000 from the Parking Meter Fund.

- 43.) Appropriate \$2,649,916, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of streets. To meet the appropriation transfer \$859,916 from the Parking Meter Fund.
- 44.) Appropriate \$336,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of sidewalks.
- 45.) Appropriate \$300,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for storm water improvements. and to meet the appropriation transfer \$300,000 from the retained earnings of the Water and Sewer Enterprise Fund.
- 46.) Appropriate \$265,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water meter transmission unit (MTU) replacements, and to meet the appropriation transfer \$265,000 from the retained earnings of the Water and Sewer Enterprise Fund
- 47.) Appropriate \$260,000, to be expended under the direction of the Building Commissioner with any necessary contracts over \$100,000 to be approved by the Select Board for repairs to the elevator at the Netherland's Road facility and to meet the appropriation transfer \$260,000 from the retained earnings of the Water and Sewer Enterprise Fund.
- 48.) Appropriate \$0, to be expended under the direction of the Commissioner of Public Works, for the design of the renovation of Schick Playground. **NOT MOVED**
- 49.) Appropriate \$310,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the renovation of playground equipment, fields, and fencing.
- 50.) Appropriate \$155,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of Town and School grounds.
- 51.) Appropriate \$235,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board and the Tree Planting Committee, for the removal and replacement of trees.
- 52.) Appropriate \$0, to be expended under the direction of the Chief Procurement Officer for school furniture upgrades. **NOT MOVED**

- 53.) Appropriate \$100,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for HVAC equipment in Town and School facilities.
- 54.) Appropriate \$0, to be expended under the direction of the Building Commissioner for the removal of underground tanks at Town and School facilities. **NOT MOVED**
- 55.) Appropriate \$80,000, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.
- 56.) Appropriate \$200,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for elevator renovations in Town and School facilities.
- 57.) Appropriate \$190,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for energy conservation projects in Town and School facilities.
- 58.) Appropriate \$125,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades to energy management systems in Town and School facilities.
- 59.) Appropriate \$300,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for fire alarm upgrades in Town and School facilities.
- 60.) Appropriate \$160,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Board of Select Board and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.
- 61.) Appropriate \$3,703,331, to be expended under the direction of the School Superintendent, with any necessary contracts to be approved by the Select Board and School Committee, for the expansion of classroom capacity in various schools.
- 62.) Appropriate \$2,000,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow \$2,000,000 under General Laws, Chapter 44, Section 8(5), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept,

- receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
- 63.) Appropriate \$3,000,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for wastewater system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow \$3,000,000 under General Laws, Chapter 44, Section 7(9), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
- 64.) Appropriate \$2,200,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements at Larz Anderson Park and to meet the appropriation authorize the Treasurer, with the approval of the Select Board, to borrow \$2,200,000, under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
- 65.) Appropriate \$0 to be expended under the direction of the Commissioner of Public Works, for the renovation of Robinson Playground. **NOT MOVED**
- 66.) Appropriate \$3,100,000, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for roof repairs/replacements to Town and School facilities and to meet the appropriation, authorize the Treasurer with the approval of the Selectmen, to borrow \$3,100,000 under General Law, Chapter 44, Section 7 (3A), as amended, or pursuant to any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of

issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

14.) **FREE CASH:** Appropriate and transfer \$11,065,720 from free cash for the following purposes:

- a.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – \$2,251,677;
- b.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – \$50,529;
- c.) Stabilization Fund (MGL Chapter 40, Section 5B) - \$1,000,000
- d.) Reduce the tax rate (Special Appropriations) – \$6,766,965;

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FY2021 BUDGET - TABLE 1 JUNE, 2020

	FY18 ACTUAL	FY19 ACTUAL	FY20 BUDGET	FY21 BUDGET SB	\$\$ CHANGE FROM FY20	% CHANGE FROM FY20
REVENUES						
Property Taxes	211,374,488	224,490,569	238,487,743	254,898,615	16,410,872	6.9%
Local Receipts	36,277,400	35,725,309	31,120,219	27,051,609	(4,068,610)	-13.1%
State Aid	20,352,973	22,112,759	22,386,947	19,455,995	(2,930,952)	-13.1%
Free Cash	8,354,017	8,427,936	9,081,257	11,065,403	1,984,146	21.8%
Other Available Funds	3,050,446	4,872,678	3,349,771	4,390,037	1,040,267	31.1%
TOTAL REVENUE	279,409,325	295,629,251	304,425,937	316,861,659	12,435,722	4.1%
EXPENDITURES						
DEPARTMENTAL EXPENDITURES						
1 . Select Board	738,119	708,050	831,487	791,662	(39,825)	-4.8%
2 . Human Resources	755,582	498,780	648,415	594,485	(53,930)	-8.3%
3 . Information Technology	1,922,893	2,077,848	2,054,746	2,080,259	25,513	1.2%
4 . Diversity, Inclusion, and Community Rel	228,918	301,017	281,088	284,825	3,737	1.3%
5 . Finance Department	3,372,305	3,280,214	3,447,845	3,286,233	(161,612)	-4.7%
<i>a. Comptroller</i>	588,341	650,453	705,540	686,819	(18,721)	-2.7%
<i>b. Purchasing</i>	661,607	724,872	744,019	697,235	(46,784)	-6.3%
<i>c. Assessing</i>	694,167	735,490	732,477	738,659	6,182	0.8%
<i>d. Treasurer</i>	1,428,190	1,169,399	1,265,809	1,163,520	(102,289)	-8.1%
6 . Legal Services	1,055,753	1,166,351	1,155,413	1,057,022	(98,391)	-8.5%
7 . Advisory Committee	21,427	23,805	28,520	28,520	0	0.0%
8 . Town Clerk	562,943	758,640	669,914	750,024	80,110	12.0%
9 . Planning and Community Development	1,006,669	1,184,050	1,235,485	1,123,926	(111,559)	-9.0%
<i>a. Planning & Administration</i>	665,737	795,520	788,247	764,962	(23,285)	-3.0%
<i>b. Housing</i>	83,864	79,632	102,096	97,683	(4,413)	-4.3%
<i>c. Preservation</i>					0	
<i>c. Economic Development</i>	257,068	308,897	345,141	261,281	(83,860)	-24.3%
10 . Police	16,151,311	18,578,613	18,159,039	17,337,000	(822,039)	-4.5%
11 . Fire	15,070,184	15,586,571	15,998,841	15,822,908	(175,933)	-1.1%
12 . Building	7,653,367	5,511,493	8,613,272	8,746,246	132,974	1.5%
(1) 13 . Public Works	16,336,101	16,069,996	16,015,170	16,008,198	(6,972)	0.0%
<i>a. Administration</i>	885,065	911,556	954,995	950,304	(4,691)	-0.5%
<i>b. Engineering/Transportation</i>	1,179,727	1,306,949	1,374,345	1,350,119	(24,226)	-1.8%
<i>c. Highway</i>	4,944,741	5,532,652	5,348,245	5,103,753	(244,492)	-4.6%
<i>d. Sanitation</i>	3,267,293	3,246,937	3,586,207	4,030,333	444,126	12.4%
<i>e. Parks and Open Space</i>	3,766,756	3,912,389	4,166,568	3,988,879	(177,689)	-4.3%
<i>f. Snow and Ice</i>	2,292,518	1,159,513	584,810	584,810	0	0.0%
14 . Library	4,147,017	4,249,242	4,317,382	3,960,760	(356,622)	-8.3%
15 . Health and Human Services	1,181,028	1,408,011	1,405,442	1,582,318	176,876	12.6%
16 . Veterans' Services	303,845	201,513	346,074	346,687	613	0.2%
17 . Council on Aging	902,328	954,436	992,321	1,007,416	15,095	1.5%
18 . Recreation	1,027,649	983,211	1,116,669	1,034,617	(82,052)	-7.3%
(2) 19 . Personnel Services Reserve	715,000	715,000	715,000	715,000	0	0.0%
(2) 20 . Collective Bargaining - Town	784,317	1,400,693	2,470,000	1,910,000	(560,000)	-22.7%
<i>Subtotal Town</i>	<i>72,437,441</i>	<i>73,541,840</i>	<i>77,317,123</i>	<i>78,468,106</i>	<i>1,150,983</i>	<i>1.5%</i>
21 . Schools	105,196,458	110,918,206	117,385,106	118,998,990	1,613,883	1.4%

		FY18 ACTUAL	FY19 ACTUAL	FY20 BUDGET	FY21 BUDGET SB	\$\$ CHANGE FROM FY20	% CHANGE FROM FY20
	22. . Vocational Education Assessments	21,753	13,878	92,895	92,895	0	-
	Subtotal Education	105,218,211	110,932,084	117,478,001	119,091,885	1,613,883	1.4%
	TOTAL DEPARTMENTAL EXPENDITURE	177,655,652	184,473,924	196,468,814	197,559,990	1,091,177	
	NON-DEPARTMENTAL EXPENDITURES						
(1)	23 . Employee Benefits	59,317,285	62,487,155	66,438,626	68,518,848	2,080,222	3.1%
(3)	a. Pensions	21,519,358	23,785,769	24,915,433	26,569,845	1,654,412	6.6%
	b. Group Health	29,055,009	29,632,981	31,650,811	32,701,792	1,050,981	3.3%
	c. Health Reimbursement Account (HRA)	0	0	0	0	0	
(3)	d. Retiree Group Health Trust Fund (CRF)	4,480,080	4,570,465	4,781,980	4,181,979	(600,001)	-12.5%
	e. Employee Assistance Program (EAP)	22,825	0	0	0	0	#DIV/0!
	f. Group Life	132,145	132,351	145,000	145,000	0	0.0%
	g. Disability Insurance	13,436	43,808	46,000	46,000	0	0.0%
(3)	h. Worker's Compensation	1,450,000	1,450,000	2,050,000	1,850,000	(200,000)	-9.8%
(3)	i. Public Safety IOD Medical Expenses	200,000	200,000	0	0	0	#DIV/0!
(3)	j. Unemployment Compensation	200,000	200,000	200,000	200,000	0	0.0%
	k. Medical Disabilities	15,709	18,846	40,000	40,000	0	0.0%
	l. Medicare Coverage	2,228,723	2,452,935	2,609,403	2,784,233	174,830	6.7%
(2)	24 . Reserve Fund	1,939,266	1,785,722	2,689,494	3,798,904	1,109,410	41.2%
	25 . HCA Reserve Fund	0	0	0	701,485	701,485	-
	26 . Stabilization Fund	0	0	0	1,000,000	1,000,000	-
	27 . Affordable Housing	576,803	545,112	200,000	0	(200,000)	-100.0%
	28 . Liability/Catastrophe Fund	203,644	456,762	389,700	49,729	(339,971)	-87.2%
	29 . General Insurance	334,959	416,563	507,952	703,507	195,555	38.5%
	30 . Audit/Professional Services	123,252	131,994	142,000	142,000	0	0.0%
	31 . Contingency Fund	11,874	14,754	15,000	10,000	(5,000)	-33.3%
	32 . Out-of-State Travel	110	1,677	3,000	0	(3,000)	-100.0%
	33 . Printing of Warrants & Reports	44,567	54,633	55,000	45,000	(10,000)	-18.2%
	34 . MMA Dues	12,588	13,121	13,553	13,891	338	2.5%
	Subtotal General	3,247,063	3,420,338	4,015,699	6,464,516	2,448,817	61.0%
(1)	35 . Borrowing	12,577,453	15,631,273	18,828,262	25,204,625	6,376,363	33.9%
	a. Funded Debt - Principal	9,007,500	10,195,000	11,952,053	13,674,000	1,721,947	14.4%
	b. Funded Debt - Interest	3,566,569	4,977,927	6,716,209	11,237,370	4,521,161	67.3%
	c. Bond Anticipation Notes	0	456,250	100,000	233,256	133,256	133.3%
	d. Abatement Interest and Refunds	3,384	2,095	60,000	60,000	0	0.0%
	TOTAL NON-DEPARTMENTAL EXPENDITURE	75,141,801	81,538,766	89,282,587	100,187,989	10,905,403	12.2%
	TOTAL GENERAL APPROPRIATIONS	252,797,453	266,012,690	285,751,400	297,747,980	11,996,579	4.2%
	SPECIAL APPROPRIATIONS						
	36 . Repairs to Garage Floors (revenue financed)					No motion	
	37 . Town Building Rehab/Upgrade (revenue financed)				60,000		
	38 . Fire Station Alerting System Replacement (revenue financed)				450,000		
	39 . Police/Fire Radio Infrastructure (revenue financed)				900,000		
	40 . Traffic Calming / Safety Improvements (transfer from parking meter fund)				81,500		
	41 . Bicycle Access Improvements (revenue financed)				125,000		
	42 . Parking Meters (transfer from Parking Meter Fund)				216,000		
	43 . Street Rehab. (rev financed (\$1.79M) + Parking meter fund (\$859,916))				2,649,916		

	FY18 ACTUAL	FY19 ACTUAL	FY20 BUDGET	FY21 BUDGET SB	\$\$ CHANGE FROM FY20	% CHANGE FROM FY20
44 . Sidewalk Repair/Reconstruction (revenue financed)				336,000		
45 . Stormwater Improvements (revenue financed Water and Sewer fund)				300,000		
46 . Water Meter MTU Replacement (revenue financed Water and Sewer fund)				265,000		
47 . Water Garage Elevator Renovation (revenue financed Water and Sewer fund)				260,000		
48 . Schick Playground (revenue financed)				0	No motion	
49 . Playground Equipment, Fields, Fencing (revenue financed)				310,000		
50 . Town/School Grounds Rehab (revenue financed)				155,000		
51 . Tree Removal and Replacement (revenue financed)				235,000		
52 . School Furniture Upgrades (revenue financed)				0	No motion	
53 . HVAC Equipment (revenue financed)				100,000		
54 . Underground Tank Removal (revenue financed)				0	No motion	
55 . Town/School ADA Renovations (revenue financed)				80,000		
56 . Town/School Elevator Renovation Program (revenue financed)				200,000		
57 . Town/School Energy Conservation Projects (revenue financed)				190,000		
58 . Town/School Energy Management Systems (revenue financed)				125,000		
59 . Public Building Fire Alarm upgrades (revenue financed)				300,000		
60 . Town/School Bldg Security / Life Safety Systems (revenue financed)				160,000		
61 . Classroom Capacity (revenue financed)				3,703,331		
62 . Water System Improvements (utility bond)				2,000,000		
63 . Wastewater System Improvements (utility bond)				3,000,000		
64 . Larz Anderson Park (bond)				2,200,000		
65 . Robinson Playground (bond)				0	No motion	
66 . Town/School Roof Repair/Repl. Program (bond)				3,100,000		
(4) TOTAL REVENUE-FINANCED SPECIAL	9,720,862	10,979,868	9,949,094	10,376,750	427,656	4.3%
TOTAL APPROPRIATED EXPENDITUR	262,518,315	276,992,558	295,700,495	308,124,730	12,424,235	4.2%
NON-APPROPRIATED EXPENDITURES						
Cherry Sheet Offsets	86,983	88,500	89,070	86,027		
State & County Charges	6,492,524	6,672,137	6,826,231	6,796,134		
Overlay	1,722,221	1,762,675	1,785,140	1,829,768		
Deficits-Judgments-Tax Titles	25,000	25,000	25,000	25,000		
TOTAL NON-APPROPRIATED EXPEND	8,326,728	8,548,312	8,725,441	8,736,929	11,488	0.1%
TOTAL EXPENDITURES	270,845,043	285,540,869	304,425,936	316,861,658	12,435,723	4.1%
SURPLUS/(DEFICIT)	8,564,281	10,088,382	0	0	0	

(1) Breakdown provided for informational purposes.

(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.

(3) Funds are transferred to trust funds for expenditure.

(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borr

FY21 BUDGET - TABLE 2 JUNE 2020

Department/Board/Commission	Personnel Services/ Benefits	Purchase of Services	Supplies	Other Charges/ Expenses	Utilities	Capital Outlay	Inter-Govt'al	Debt Service	Agency Total
Board of Selectmen (Town Administrator)	771,679	6,880	3,048	7,900		2,155			791,662
Human Resources Department (Human Resources Director)	312,086	239,359	14,900	26,500		1,640			594,485
Information Technology Department (Chief Information Officer)	1,205,986	580,773	10,350	15,050		268,100			2,080,259
Diversity, Inclusion, and Community Relations (Director)	234,200	35,600	10,500	3,650		875			284,825
Finance Department (Director of Finance)	2,388,055	813,459	46,960	28,707	1,422	7,630			3,286,233
Legal Services (Town Counsel)	788,138	183,269	2,500	81,500		1,615			1,057,022
Advisory Committee (Chair, Advisory Committee)	24,380		3,275	570		295			28,520
Town Clerk (Town Clerk)	618,072	110,172	20,250	500		1,030			750,024
Planning and Community Department (Plan. & Com. Dev. Dir.)	1,015,630	91,034	9,712	4,550		3,000			1,123,926
Police Department (Police Chief)	15,932,141	516,731	147,857	45,300	298,802	396,169			17,337,000
Fire Department (Fire Chief)	15,235,941	151,426	126,952	27,100	212,883	68,606			15,822,908
Public Buildings Department (Building Commissioner)	2,731,448	3,199,159	24,575	5,248	2,729,946	55,870			8,746,246
Public Works Department (Commissioner of Public Works)	8,529,486	4,707,159	983,420	45,500	1,054,902	687,730			16,008,197
Public Library Department (Library Board of Trustees)	2,828,566	236,861	583,525	4,700	263,984	43,124			3,960,760
Health & Human Services Department (Health & Human Svcs Dir)	1,253,699	235,193	35,100	4,120	49,421	4,785			1,582,318
Veterans' Services (Veterans' Services Director)	178,854	2,388	1,150	163,785		510			346,687
Council on Aging (Council on Aging Director)	863,160	48,418	18,846	4,250	67,042	5,700			1,007,416
Recreation Department (Recreation Director)	739,336	23,037	86,480	12,400	170,364	3,000			1,034,617
School Department (School Committee)									118,998,990
Total Departmental Budgets	55,650,857	11,180,918	2,129,400	481,330	4,848,766	1,551,834			194,842,095
DEBT SERVICE									
Debt Service (Director of Finance)								25,204,625	25,204,625
Total Debt Service								25,204,625	25,204,625
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	26,569,845								26,569,845
Group Health Insurance (Human Resources Director)	32,701,792								32,701,792
Retiree Group Health Insurance - OPEB's (Director of Finance)	4,181,979								4,181,979
Group Life Insurance (Human Resources Director)	145,000								145,000
Disability Insurance	46,000								46,000
Workers' Compensation (Human Resources Director)	1,850,000								1,850,000
Unemployment Insurance (Human Resources Director)	200,000								200,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	2,784,233								2,784,233
Total Employee Benefits	68,518,848								68,518,848
GENERAL / UNCLASSIFIED									
Vocational Education Assessments									92,895
Reserve Fund (*) (Chair, Advisory Committee)				3,798,904					3,798,904
HCA Reserve (Town Administrator)				701,485					701,485
Stabilization Fund (Director of Finance)				1,000,000					1,000,000
Liability/Catastrophe Fund (Director of Finance)				49,729					49,729
Housing Trust Fund (Planning & Community Development Dir.)									
General Insurance (Town Administrator)		703,507							703,507
Audit/Professional Services (Director of Finance)		142,000							142,000
Contingency (Town Administrator)				10,000					10,000
Out of State Travel (Town Administrator)									
Printing of Warrants (Town Administrator)	15,000	20,000	10,000						45,000
MMA Dues (Town Administrator)				13,891					13,891
Town Salary Reserve (*) (Director of Finance)	1,910,000								1,910,000
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
Total General / Unclassified	2,640,000	865,507	10,000	5,574,009					9,182,411
TOTAL GENERAL APPROPRIATIONS	126,809,706	12,046,425	2,139,400	6,055,339	4,848,766	1,551,834		25,204,625	297,747,979

(*) NO EXPENDITURES AUTHORIZED DIRECTLY AGAINST THESE APPROPRIATIONS. FUNDS TO BE TRANSFERRED AND EXPENDED IN APPROPRIATE DEPT.

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

Background

Budgets are an expression of Brookline’s spending priorities. The Advisory Committee does not set those priorities, nor do the Select Board or the Town Administrator. Town Meeting does. The Advisory Committee’s role is to reflect those priorities back in the form of financially responsible recommendations on departmental budgets, capital projects and reserves. When Town Meeting adopts new priorities, our recommendations should reflect that change, although along the way, the Advisory Committee may pause and say, “Are you sure?”

But once Town Meeting sets the course, it’s government’s job to follow it. Thus in November, as residents became increasingly determined to reduce local CO2 emissions, the Advisory Committee worked closely with the authors of Article 21 which prohibits the installation of new HVAC systems that use fossil fuels, and voted overwhelmingly to recommend its approval.

There is never enough money in the budget to satisfy all of our priorities, but if Town Meeting tells the Advisory Committee what its spending priorities are, we will explain how to allocate whatever funds are available in a way that is both responsive to those priorities and fiscally responsible.

The FY21 Budget Resolution

In normal times, we would submit the budget resolution in the Combined Reports. Covid-19 has upended the schedule for budget reviews, and criticism of the police in general and the Brookline Police Department in particular resulted in our vote to postpone a recommendation on the Police budget until the evening of June 18, by which time this Supplemental Report will have gone to the printer.

The final budget resolution under Article 8, including any changes to the Police budget will be emailed to Town Meeting members and posted on the Town Meeting page of the Town website on June 19. Apart from that one line item, the Advisory Committee’s recommendations in this Report are complete.

The Impact of Covid-19

This year, allocating money in a way that is both responsive and fiscally responsible has been painfully difficult. The FY 21 budget is built on the assumption that there will be \$12 million less than we expected only a few months ago, so we have what is basically a level-funded budget at a time when costs have risen by about 5%.

The budget makes choices that lean in the direction of keeping Town departmental services largely intact and minimizing layoffs and furloughs. The uncertainty around how schools will operate has caused its own special form of anguish, but we expect that the number of layoff notices sent at the end of May significantly exceed the number of jobs that will be lost. The budget also maintains a modest level of cash reserves in recognition of the likelihood that FY22 revenues will be relatively weak.

This budget is the result of many Zoom meetings, and after overhearing one of them, one resident asked, “Is Brookline going to make it through this? Will everything just fall apart?” The answer is “Yes”, and “No”. Yes, Brookline will make it through, and No, what the people of Brookline have built will not fall apart. This budget will keep our schools and our town operating through an economic and social crisis created by a pandemic. But we will operate on an admittedly uncomfortable diet.

Post-Covid-19; BFAC

Much of this narrative is about the impact of Covid-19 on the Town’s budget, but there will be a post-Covid-19 world. When we finally enter that world, we need to bring along a recognition of the issues that the Brookline Fiscal Advisory Committee (“BFAC”) raised in the report submitted at the beginning of 2020. We have not addressed these issue in any detail in this report, but we note progress in one area highlighted that was by BFAC.

BFAC’s report criticized the lack of coordination in both short- and long-term financial planning between the Select Board, School Committee, their respective staffs, and the Advisory Committee. The work to improve coordination started in January, and the budget impacts of Covid-19 have pushed that work forward. The Town-School Partnership Committee has been the medium of communication between the groups of people responsible for Brookline’s budget and finances, and it has helped coordination to a much greater extent than in the recent past.

Assumptions

The budget projects a \$12.1 million shortfall in the revenue we expected to have when the the original FY21 budget was published on February 15. It is important to understand the assumptions the budget is built on, at where money has been shifted from longer term priorities, and at what we have not been able to fund.

The FY21 Financial Plan published in February projected \$358 million in total revenue, a 6.8% increase over FY20. Part of the increase came from a property tax increase approved by the 2018 override, part from the annual increase in property values, new construction and the Proposition 2-1/2 tax increase, and part came from an expected increase in State aid, especially for education.

The Covid-19 shutdown of retail stores, restaurants and travel changed expectations sharply. Brookline relies heavily on non-property tax revenue, which comes primarily from State aid and from local sources. The Town Administrator and his staff developed three scenarios to estimate post-Covid revenue for FY2:1

- Best case: \$6 million decline vs. the February 2020 revenue projection
- Middle case: \$12.1 million (following the Select Board's vote to increase parking meter fees)
- Worst case: \$19 million

The Town Administrator's middle case scenario includes a \$3,336,225 decrease in State Aid and a reduction in local receipts of \$8,823,190 = \$12,159, 415. The scenario assumes that 100% of property taxes will be collected (which is the case over the long run, even if there are defaults in a given year).

At the end of March, the Advisory Committee's subcommittee chairs used a model of Brookline's revenue to produce a range of estimates clustered around a \$12 million shortfall. Some subcommittee chairs assumed a decline in property tax receipts, and various individuals had different assumptions about the decline in State aid. Despite the differences in methodology, the Advisory Committee subcommittee chairs and the Town Administrator produced similar projected revenue numbers for a middle case scenario.

The following summary is from the presentation made to the Select Board and viewed separately by the Advisory Committee on June 2, 2020.

Projected Budget Shortfall: \$12,159,415 (from prior FY 21 Budget)

- State Aid reduced by \$3,336,225
- Local Receipts reduced by \$8,823,190
- Capital Budget Reduced by \$3.5 million
- School Classroom Capacity Fund (leases) reduced by \$2.5 million
- Park Renovation Projects deferred \$1.3M (\$160K savings in FY21)
- Further Consideration of all projects in Fall 2020

Departmental Operations

- School Department budget reduced by \$4,362,148 (-3.5%)
- Municipal Departments reduced by \$3,342,341 (-4.1%)

Reserves and Long-Term Obligations

- Use of One-Time Funds Not Recommended for “Year 1” of the Covid-19 impact
- OPEB Annual Increase Deferred (\$250,000)
- Stabilization Fund contributed diverted to the Annual Reserve Fund
 - Note: OPEBs are the largely unfunded obligations for health care insurance to retired employees. Brookline sets funds aside each year to fund these obligations. The FY 20 amount was \$4.8 million, due to be increased by 250,000 in FY21.
 - In keeping with the strategy of not using every possible source of funds in the first year of what could be a multi-year problem, the Town Administrator recommends deferring that \$250,00 increase, but making the \$4.8 million contribution.
 - *The Advisory Committee has not yet taken a formal vote, but in our discussion of the recommendation we wanted to make, the consensus was to reduce the base \$4.8 million by \$2.4 million and using those funds for operating expenses.*
- Relying Upon Federal Funding (FEMA, CARES, CDBG)
 - The federal CARES Act will provide Brookline with \$5.2 million to cover unbudgeted Covid-19 costs. That will offset the over \$1 million for direct Covid-19 costs that has already been transferred by the Advisory Committee from the Annual Reserve fund to Town departments.

Projected changes in revenue from local sources of non-property tax revenue

Revenue from sources other than property taxes account of 21% of Brookline’s total revenue. Those sources include taxes on meals, hotel occupancy and marijuana sales; fees for permits, parking meters, licenses, etc.; interest earned; and payments by non-profit organizations in lieu of property taxes (“PILOT” agreements).

The table below lists the “local sources” of revenue and compares the original FY21 budget with the revised budget submitted on June 2nd.

Revenue Source	FY20 Budget	Orig. FY 21 Budget	6/2 Revised FY21 Budget	Variance	Percent	Note
Auto excise	\$ 6,142,644	\$ 6,265,497	\$ 5,952,222	\$ 313,275	5%	
Local option taxes	\$ 3,460,310	\$ 5,243,495	\$ 2,871,748	\$ 2,371,747	45%	Hotels, meals, marijuana
Licenses & Permits	\$ 1,170,775	\$ 1,180,775	\$ 952,259	\$ 228,516	19%	Alcohol, Victualler, etc.
Parking & court fines	\$ 3,300,000	\$ 3,300,000	\$ 1,650,000	\$ 1,650,000	50%	
General gov't	\$ 4,564,268	\$ 5,317,930	\$ 5,052,033	\$ 265,897	5%	Building permits, etc.
Interest income	\$ 974,977	\$ 999,351	\$ 749,513	\$ 249,838	25%	
PILOTs	\$ 1,010,509	\$ 1,530,719	\$ 1,377,647	\$ 153,072	10%	
Trash fees	\$ 2,850,000	\$ 3,598,654	\$ 3,224,327	\$ 374,327	10%	Assume mid-year increase
Parking meters & other fees	\$ 7,646,736	\$ 8,438,378	\$ 5,221,860	\$ 3,216,518	38%	Parking meters & other fees
Total	\$ 31,120,219	\$ 35,874,799	\$ 27,051,609	\$ 8,823,190	25%	Impact on Local Sources

That \$8,823,190 plus the anticipated decrease in State aid of \$3,336,225 totals to the \$12,159,415 decrease in projected FY21 revenue vs. the original FY21 budget.

Impact on Municipal Operations

Departmental Budget Reductions

Departmental Expenditures	Reduction	Notes
1. Select Board	\$37,514	Continued furlough of PT position, professional development
2. Human Resources Department	\$44,300	Professional development, consulting services
3. Information Technology	\$43,975	Intern program, reduction in services
4. Diversity, Inclusion, and Community Relations	\$23,750	Reduced programing
5. Finance Department	\$188,160	Reduced cc transactions, 1 Vehicle, postage, software service
6. Legal Services	\$106,140	Reduced general consulting, claims and settlements
7. Advisory Committee		
8. Town Clerk	\$9,450	Misc. supplies and overtime
9. Planning & Community Development	\$125,423	1.5 Vacancies, delay filling Sustainability position

10. Police	\$506,412	2 Continued furlough of 2 FT positions, 1 Vacancy, reduced equipment, & training
11. Fire	\$424,894	1 Vacancy, reduced equipment and supplies
12. Building	\$261,980	1 Vacancy, reduced repair and maintenance funds
13. Public Works	\$676,647	3 Vacancies, reduced capital outlay, supplies and services
14. Library	\$388,535	1 Vacancy; continued furlough of 9.84 FTE part-time positions for part of the year, supplies
15. Health	\$30,000	1 Vehicle
16. Veterans	\$34,600	Intern program, reduction in services
17. Council on Aging	\$94,037	Continued furlough of part time positions allows staff to shift to grants
18. Recreation	\$110,934	Shift 2 positions to Revolving Fund
Department-Wide		
Leased Computer Savings	\$20,000	
Utility Savings	\$86,175	Recent gasoline/diesel bids
Group Health Reduced enrollment	\$129,415	Vacant position reductions
Total Reductions	\$33,342,341	Total staff vacancies & reductions: 21.86 FTEs

Town Operating Budget

The Advisory Committee recommends favorable action on the Town’s operating budget of \$197,559,990, the formal budget motion can be found at the end of this report.

Capital Budget

The FY 2021 CIP recommendations that were originally voted by the Advisory Committee were revised in light of the expectation of a significant decrease in revenue in the coming fiscal year and perhaps beyond. The Advisory Committee’s Capital Subcommittee assessed sixty-six projects based on each one’s impact on public health and safety and on the future cost implications if the project was delayed. The table below summarizes the key changes we recommend.

The complete list of projects and the Advisory Committee’s rationale for our recommendations are listed in Appendix 2.

Description	Orig. Amount	Reduction from re-Covid budget	Notes	Recommended by AC capital subcommittee?
Garage Floor Sealants	\$215,000	(\$215,000)		Y
Traffic Calming	\$81,500	\$81,500	Alt. source of funds	N
Parking Meter Upgrade	\$322,000	(\$106,080)	Meter upgrade will provide revenue	Y
Street Rehab	\$2,649,916	(\$370,420)	Alt. source of funds	N
Robinson Playground	\$1,150,000	(\$1,150,000)		Y
Schick Park	\$160,000	(\$160,000)		Y
Town/School Grounds Rehab	\$165,000	(\$10,000)		N
School Furniture	\$70,000	(\$70,000)		Y
HVAC Equipmant	\$150,000	(\$50,000)		N
Oil tank removal	\$100,000	(\$100,000)		Y
Classroom Capacity (Leases)	\$6,573,751	(\$2,500,000)		N
Total Reduction from pre-Covid budget		(\$3,500,000)		

Reserves

See Appendix 1 for a detailed description of reserves and the constraints around using them.

The Advisory Committee recommended and the Select Board agreed that the budgeted \$2 million contribution to the Stabilization Fund should be reduced to \$1 million, with the remaining \$1 million added the annual budget reserve that can be accessed for contingencies by vote of the Advisory Committee.

As noted above, we recommend a \$4.2 million contribution to OPEBs in line with Town Administrator’s budget, but we recommend hold back \$2 million until December 1, 2020, when both FY21 revenue and Covid-related expenses will be better known.

We cannot change our annual contribution to reduce unfunded pension obligations, but looking forward to FY22, there may be an opportunity to temporarily reduce the \$26.6 million contribution to pension liabilities. Brookline is on track to completely fund those obligations by 2030, but we are not required to do so until 2040.

Free Cash

The Advisory Committee recommends approval of the Town Administrator’s plan for allocating free cash from FY20 as follows. *Please note the detailed explanation of Free Cash in Appendix 1.*

Free Cash Use	Amount
Operating Budget Reserve (“Annual Reserve”) (25% of the Operating Budget Reserve, in line with Brookline financial policies)	\$1,699,726
Unreserved Fund Balance (left unappropriated in free cash)	\$2,600,000
Stabilization Fund	\$1,000,000
Liability Reserve (1% of prior year’s revenue, per financial policies)	\$50,529
Capital Improvements (the normal use of a substantial portion of free cash)	\$4,198,356
Affordable Housing Trust (<i>using Capital Improvement funds in the AC’s line item allocations</i>) to return the fund balance to \$5 million	\$726,549
Subtotal	\$10,275,160
Amount available for Special Use: Additional Capital Improvements Plan items	\$4,117,109
Total	\$14,392,269

School Operating Budget

The Advisory Committee recommends favorable action on the Town’s operating budget of \$118,998,990 on the appropriation of \$118,998,998 for the School Department’s FY21 Budget, expressing its commitment to the purpose for which these funds are to be appropriated: the delivery of a full-time inclusive high-quality education of children.

Further, the Advisory Committee recognizes that collaboration among our key stakeholders: the Brookline Educators Union, the Remote Learning Task Force, the School Department, the School Committee, teachers and parents (including expertise from the community from multiple disciplines), is essential to ensure that the appropriated funds are effective in providing full-time, synchronous education to all children in the Brookline Public Schools during the 2020-2021 school year, whether that education is online, in person, or hybrid.

Due to the ongoing COVID health crisis, the Public Schools of Brookline’s (PSB) budget has been developed in an environment of unprecedented uncertainty. Some of the factors contributing to the challenges in developing the budget included:

- A reduction in forecasted Town revenue that created efforts on both the Town and School side to close the resulting budget gap.
- The lack of clear information from the State on what school will look like in September.
- A delay in guidance from DESE (Department of Elementary and Secondary Education).
- The learning model likely changing as the year progresses based on the health and safety outlook.
- Contractual obligations with the Brookline Educators Union (BEU).

The uncertain environment, need to close the budget gap, and the increasing concern from the school community resulted in several iterations of the budget that culminated in the School Committee requesting an FY21 appropriation from Town Meeting of \$118,998,990. The following is a high-level description of the budget iterations and timing.

The Schools entered the current budget cycle at the start of 2020 facing a likely structural deficit, and before Covid-19, the School Committee and Superintendent had responded by identifying a total of \$2,575,928 in cost reductions in an effort to develop a balanced budget. This work was completed at the start of April, and the anticipated request to Town meeting was set at \$123,362,138, which represented a 5% increase the FY20 budget approved in May of 2019.

But by the beginning of April, it became apparent that “local source revenue” – parking meters, meals taxes, etc. – would be significantly impacted by the effects of Covid-19 on the local economy. At the beginning of May, the Advisory Committee requested a meeting of the Town-School Partnership committee to review how the shortfall would be split between the various budgets – Town operating, School operating, capital projects, and special appropriations such as our contribution to pensions and benefits for retired Town employees (“OPEBs”).

A series of T-S Partnership meetings resulted in agreement that \$118,998,990 would be available, a reduction of \$4,462,148 from the pre-Covid budget. The following table summarizes the changes between pre- and post-Covid School budgets.

Program	FY20 Budget	FY21 Pre-Covid Budget	FY21 Post-Covid Budget	Change, FY21 Pre-Covid vs. post-Covid
General Fund (Town Meeting's appropriation)	\$117,385,106	\$123,362,138	\$118,998,900	(\$4,362,128)
Tuition & Fees	\$717,523	\$505,000	\$505,000	
Circuit Breaker State funding	\$1,769,814	\$2,071,547	\$1,971,547	(\$100,000)
Totals	\$119,872,443	\$125,937,685	\$121,475,537	(\$4,462,148)

School costs have risen by about 5% since last year, almost entirely driven by increases in salaries, which account for 87% of the department's budget. The School Committee adopted the following cuts to achieve that reduction:

Total reduction in funds available (see above)	(\$4,462,148)
Less: Identified Savings	
Central Office, District-wide Leaders & C.O. Expenditures	\$1,696,500
Elimination of planned annual increases for all staff except those that are contractually obligated (AFSCME, BEU steps & lanes)	\$2,221,500
Total	\$3,991,000
Remaining deficit	(\$545,148)

The Schools have requested a Reserve Fund Transfer of up to \$500,000 to close that budget gap. The Advisory Committee will vote on that request on June 18.

Unknowns for the Schools

State regulations on BEEP have not been finalized; the budget impact is unknown

State regulations for Early Childhood Education have not yet been fully issued. The final guidelines may impact classroom and program capacity, tuition rates and program revenue.

BEEP enrollment is uncertain

The BEEP program is dependent on tuition to fund its program and personnel. A reduction in enrollment and tuition revenue may result in a program deficit that is not currently accounted for in the FY21 budget.

State COVID regulations on K-12 have not been finalized; the budget impact is unknown

The initial statement from the Department of Elementary and Secondary Education (DESE) was that K-12 classrooms could not have more than ten students present, plus up to two adults. It is still unclear whether DESE will change those guidelines, but if they remain in place all public and private schools in the Commonwealth face a daunting set of questions: How does the school with a fixed number of classrooms and its existing staff of teachers function with these limits? Will there be a hybrid classroom + online model? Will there be split sessions each day, with half the students attending in the morning and half in the afternoon? Will half the students come one week, and half the next, while the ones at home receive online instruction?

What will it cost to implement a different model? What summertime teacher training will be needed? Who will pay for that? Final guidance from DESE is expected at the beginning of July. This will have a substantial impact on the requirements and choices available to Brookline schools.

COVID-related expenses are unknown and are not included in the FY21 Schools budget; eligibility for Federal reimbursement is uncertain

COVID-related expenses may include a wide range of cost categories including but not limited to cleaning supplies and janitorial labor, technology and printed materials, personal protective equipment (PPE), staff training, and support staff. The impact that these costs have on the budget are dependent upon yet-to-be-finalized guidance from the Department of Elementary and Secondary Education (DESE).

The extent to which these expenses may be reimbursed by Federal monies and amount available to us is still unknown

Staffs layoff and rescinding of layoffs

The Schools' contracts with its teachers requires that notice of layoffs for the following school year be sent no later than May 30. Given the uncertainty, the School Dept. issued layoff notices to 300 staff members, because the May 30th deadline forced them to cut deeply to ensure that they had cut far enough for all reasonable scenarios. It's likely that far fewer staff members will actually lose their jobs, and notices rescinding layoffs are currently being processed and sent out. Nonetheless, some layoffs may be inevitable. (The Town departments have furloughed about 200 employees.)

The Advisory Committee has pointed out an alternative to reducing staff and cutting expenses such as the budget for supplies that had already been reduced in the early April, pre-Covid budget. The alternative is to postpone salary increases for teachers and staff

who are members of unions with which the Schools have signed contracts. That would of course require the unions' agreement. Another possibility is for the unions to agree to reduce the 82% share the Schools pay for employee health care insurance, the savings from which could be applied to the salary account.

Whatever teaching model is adopted, and whatever the cost implications, we are constrained by the total amount of revenue available and by the need to maintain a broad range of public services included in the Town operating budget.

Appendix 1: An Explanation of “Unassigned Funds”

There have been a number of questions about the Brookline’s unassigned funds – the \$26.6 million on the Town’s balance sheet at the at the end of the last fiscal year (on June 1, 2019).

Here’s a breakdown of that number:

Stabilization Fund	\$6,772,869
Free Cash	\$14,392,269
Receivables	<u>\$5,479,679</u>
Total	\$26,644,817

Receivables are money the Town is owed. Ultimately we will collect some, but not all of it. It’s not cash, and it can’t be spent any more than someone could spend the IOU they might have from a deadbeat brother-in-law.

The Stabilization Fund is Brookline’s “rainy day fund”. It takes a 2/3rds majority of Town Meeting to take money out of the fund. There are restrictions on use of the funds. No more than \$1 million can be spend in any one year. The Stabilization Fund has \$2 million less in it than the bond rating agencies recommend for Brookline. Withdrawing funds puts our favorable bond rating at risk, which would mean higher interest costs for the school construction projects that are in the pipeline.

The February version of the Town budget included a \$2 million payment into the fund. The revised budget reduces that by \$1 million. The Advisory Committee has suggested, and the Select Board has agreed, to recommend approving that amount but not actually paying out the funds until November Town Meeting, when the impact of Covid-19 will be clearer. If the funds are needed elsewhere, they could be diverted by Town Meeting without passing through the Stabilization Fund.

Free Cash is the often hardest concept to wrap one’s head around. We have a \$325 million-plus budget, and at the end of a typical year, some of that money will remain unspent. For example, if a staff position becomes vacant and it’s not filled, the unused funds set aside for that person’s salary end up in free cash at the end of the year.

The unexpended balance is recycled to fund part of the next year’s budget, so while it’s free on the last day of the fiscal year (June 30), it is allocated for use in the fiscal year that the starts the next day.

- A substantial portion is used to fund the following year’s capital projects – parks, pedestrian and bike improvements, etc.
- A portion is used to bring the Affordable Housing Trust Fund up to its target level.
- Another slice goes into the reserve fund that the Advisory Committee uses when ether are extraordinary and unanticipated expenses during the year. The \$500,000

- for removing the Davis Path Footbridge over the D Line is an example; snow removal costs beyond what was budgeted are another example.
- A portion amount is held back to start of the next year’s free cash account, because the amount of cash left over from operations at the end of each fiscal year varies from year to year, so a base amount is retained in the free cash account. As of this writing, the FY21 budget holds back \$2.6 million in free cash.

Free cash is “one-time” money, rather like a year-end bonus. Depending on the year, bonuses varies significantly, so using that remaining \$2.6 million in “one-time” money for operating expenses is a mistake. It would be like relying on one’s highly variable bonus to pay the mortgage or the rent, rather than living within one’s base income. And we’re headed into a difficult period; we expect free cash at the end of the coming year to be far below the \$14.4 million that was available for allocation at the start of FY20.

Benjamin Disraeli said, “There are three kinds of falsehoods – lies, damned lies, and statistics.” Sometimes accounting data is the fourth falsehood. The \$26.6 million on the books as of a year ago does not mean we have (or ever had) \$26.6 million in a piggy bank. The number is technically correct as an accounting of our assets on that day, but it far exceeds the actual reserves available for the FY21 budget.

And using the reserve funds that do exist to cover this year’s operating expenses means that they will be depleted at the end of FY21, a year in which we expect to generate far less in free cash. That will put us in a second, possibly worse budget crunch for the fiscal year that starts on July 1, 2021.

For more on the recommended uses of free cash, click on this link to the Commonwealth of Mass. Department of Local Services:

<https://www.mass.gov/files/documents/2017/09/09/freecash.pdf>

Appendix 2: Capital Improvement Projects

The FY 2021 CIP recommendations that were originally voted by the Advisory Committee were revised in light of the expectation of a significant decrease in revenue in the coming fiscal year and perhaps beyond.

The following recommendations were made after consultation with Department heads and, when appropriate, Division heads. They were also made after considering the following questions:

1. Will the Town incur additional costs (exclusive of inflation) if the project doesn't proceed in FY 21?
2. Will the safety of the public be impacted if the project does not proceed in FY 21?
3. Are there any opportunity costs to consider if this project is delayed by one year? By two years? (For example, if there will be state or other sources of funds available in FY 21 to help offset the cost of the project, is it likely that those funds would still be available in FY 22 or FY 23?)

An additional consideration was the relationship between the proposed project and efforts to meet the Town's goal to achieve zero emissions by 2050 community wide.

36. GARAGE FLOOR SEALANTS - Defer

Recommendation: \$0

Work can be delayed without incurring additional significant cost.

Sealants are required every seven years for concrete suspended floors. If the floor is not properly sealed to prevent corrosion of the concrete and rebar, the floor will deteriorate, potentially leading to costly repairs including new concrete and possibly structural repairs.

Funds in the amounts of \$50,000 and \$100,000, previously allocated in FY 14 and FY 16, would be combined with the currently requested \$215,000 for work on the garage floors in 1) Fire Stations 1, 4, 6, 7; 2) the Municipal Service Center; and 3) the Main Library.

37. TOWN REHAB/UPGRADES - Fund

Recommendation: \$60,000

Funds to be used to address public safety-related repairs or replacements.

This program, instituted in 2017, uses CIP funds for the repair and upgrade of Town facilities during the time between major renovation projects. Items funded under the program have included large-scale painting programs, new flooring, ceilings, window treatments and toilet upgrades. There is currently more than a \$300,000 backlog of work

to be done. The Advisory Committee recommends that in FY 21 these funds be used to address public safety-related repairs or replacements, including, but not limited to:

- Public Safety building: stair treads
- Senior Center: flooring, including carpeting

38. FIRE STATION ALERTING SYSTEM REPLACEMENT

Recommendation - \$450,000

Necessary for Public Safety

The Brookline Fire Department's "Zetron" fire station alerting system was purchased over 20 years ago and needs immediate replacement. The system was temporarily upgraded in 2016 to accommodate the Town's changeover to fiber optic transmission, however the local vendor notified the Town in August of 2018 that it would no longer support this upgrade. The system continues to degrade and is no longer reliable, with failures experienced on a regular basis.

Technology changes over the past two decades have vastly improved and modern system components both enhance response capabilities and reduce alerting stressors for firefighters. Improvements in the dispatch-side system components provide a faster and more intuitive user-interface for dispatchers, thus reducing their stress as well. The integrated text-to speech technology standardizing all initial dispatch announcements offers needed consistency and reduces the possibility of responders misunderstanding the alert message.

In-station enhancements will include upgrades to all speakers and alert lighting to comply with NFPA (National Fire Protection Association) 1500 standard for firefighter health and wellness. Wall-mounted message boards, including a timer countdown display, will improve turnout time. In-station video monitors will display current dispatch information incorporating mapping overlays for routing and other vital information. During non-dispatch times these monitors can display all current Fire Department activity as well as Metro Fire activity in real time.

The operating costs for the system include funding for annual service contracts for the software components of the system.

39. RADIO INFRASTRUCTURE

Recommendation: \$900,000 (payment in Year 2 under Lease-Purchase financing)

Critical to Public Safety

The upgrading of the radio infrastructure for the police and fire radio channels began last year since replacement parts no longer readily exist for current equipment, and the infrastructure as a whole, including the radio copper circuit connections that will no

longer be supported by Verizon, has reached its “end of service” phase. No work has been permitted for over 10 years due to the T-Band frequency freeze imposed by Congress and the restrictions of the FCC license under which the departments operate.

This project consists of replacing a) Police radio channels 1 and 2; b) Fire radio channel 1; and c) the subscriber radios (portable, hand-held radios and mobile radios that are installed in the departments’ vehicles) for both departments. The estimated cost to rebuild the infrastructure for the three radio channels along with the subscriber costs is \$3,944,577.30.

Plans to fund the cost of the project continue to call for a lease-finance approach over a 5-year period. Last year, the first \$900,000 leasing payment was made; an additional \$900,000 in FY 21 CIP funds is requested to cover the cost of the second leasing payment. By FY 24, the Town will own the equipment.

Currently, the cost of maintaining the equipment in the Police Department is approximately \$42,000; the estimated cost of maintaining the equipment in FY 24 is approximately \$52,000.

40. TRAFFIC CALMING / SAFETY IMPROVEMENTS

Recommendation: \$0 for now, reconsider at the Fall Town Meeting

Funds have been requested to install solar powered Rectangular Rapid Flash Beacons (RRFB) at the two crosswalks across Washington Street at Gardner Road to increase safety for pedestrians crossing this well traveled roadway. The RRFB signal is approved for usage as a warning beacon to supplement standard pedestrian crossing warning signs and has shown to increase the safety of crosswalks by improving the yielding rate of motor vehicles for pedestrians in a crosswalk. The Town has installed RRFBs in similar high pedestrian and motor volume locations with success in improving safety.

41. BICYCLE ACCESS IMPROVEMENTS

Recommendation: \$125,000; \$50,000 (State Funds)

Necessary for Public Safety; Bridle Path funding leverages State Funds

1. Olmsted Beacon Street Bridle Path Feasibility Study (\$33,539)

FY 21 funding would be added to the existing \$117,757 appropriated from the 2019 Transportation Network Company Funds, along with \$50,000 in State funds to underwrite a study for determining the feasibility of the restoration of the Olmsted Bridle Path on Beacon Street.

The restoration of the Bridle Path was rated one of the highest priority projects at the June 2019 Select Board Sustainability Summit It is included in the Transportation Board

approved Green Routes Master Network Bike Plan and has the support of local and regional groups with a wide array of perspectives including transportation and access for the disabled.

Determining feasibility includes identifying necessary relocation or removal of infrastructure and estimating the construction cost to provide for a 10 to 15 foot dedicated multi-use path for use by bikes, scooters, joggers, runners, wheelchairs, and other non-vehicular transportation modes.

2. Green Street Contra-flow Bike Lane (\$36,199)

One of the FY 21 Bicycle Access Improvement projects calls for the installation of a contra-flow bicycle lane on the entire length of Green Street from Dwight Street to Harvard Street. Contra-flow bicycle lanes are bicycle lanes designed to allow bicyclists to ride in the opposite direction of motor vehicle traffic. They convert a one-way traffic street into a two-way street: one direction for motor vehicles and bikes, and the other for bikes only.

The second block of the proposed contra-flow bike lane, from John Street to Harvard Street, would be bollard protected. The lane will provide a safer, lower stress connection allowing a cyclist to travel legally from Dwight or John Streets to Harvard Street and make a network connection to the existing north/south bicycle accommodations on Harvard Street from the neighborhoods to the north/east of Harvard Street.

Additionally, the Green Street Contra-flow Bike Lane will allow cyclists on Beacon Street seeking to travel north on Harvard Street to bypass the last block of Beacon Street (where the bike lane ends) as well as the intersection of Beacon Street and Harvard Street to make this connection via John Street and Green Street.

The proposed design includes current best standards for such an installation: 1) using a buffered yellow lane line marking between the motor vehicle and the contra-flow bicycle; 2) BIKE STOP signs as you approach the cross streets of John Street and Harvard Street; and 3) a bike walk next to the existing crosswalk for cyclists to safely cross Harvard Street to enter the southbound bike lane.

The Town of Brookline has had several contra-flow bicycle lanes installed for many years without any reported incidents of accidents, which mirrors the experience of Cambridge and other municipalities.

3. Beacon Street Westbound (St. Mary's Street to Carlton Street) Parking-Protected Bike Lane (\$55,262)

The second Bicycle Access Improvement project proposes to replicate the parking-protected bike lane installation on Beacon Street in Boston immediately before the Town-

line by relocating the existing westbound bike lane to the right of the parking lane so that it becomes a bike lane protected by the curb on one side and parked vehicles on the other.

The bike lane will have the additional protection of bollards installed in line with the parking meters to ensure parked vehicles do not encroach on the bike lane or door zone buffer. These parking protected bike lanes are a lower cost way to provide safer, protected accommodations for cyclists on high stress roadways with multiple lanes, high traffic volumes, high parking turnover, and a high number of double parked vehicles.

An additional benefit is the creation of a splitter island that will provide a year-round location for the popular BlueBikes bike share station that is currently removed in the winter due to its location on the public way.

42. PARKING METER TECHNOLOGY UPGRADE

Recommendation: \$216,000

Funds are recommended to be used to replace only old IPS meters at this time, thereby ensuring timely collection of parking meter fees; funds for the replacement of coin-operated meters is not recommended at this time since their replacement will result in greater operating costs for DPW due to data storage services fees.

In 2013, the Town of Brookline undertook the upgrading of metered public parking spaces to provide customer convenience, ensure a regular turnover of spaces in high demand areas, and improve municipal maintenance and collection operations. This effort included the installation of both Digital Luke multi-space parking meters in public parking lots and over 500 IPS single space, credit-card-accepting parking meters in high-use districts along portions of Beacon Street, Harvard Street, Kent Street, and Brookline Avenue. Replacement of the remaining 1,320 coin-only single head parking meter mechanisms with the IPS credit-card-accepting meters continues. The per-unit price of \$610 per mechanism includes meter mechanism, installation and commissioning, and an extended 12-month warranty. Upgraded parking meters will also accept coins.

It should be noted that the cost of data storage services for meters is expected to increase by \$81,000, reflecting the installation of new IPS meters in place of existing coin-operated meters.

TRANSPORTATION NETWORK COMPANY FUNDS (State)

Because of the timing of the announcement and availability of funds for the municipality by the state, this budget item will require appropriation as part of the November Special Town Meeting.

43. STREET REHABILITATION – TOWN

Recommendation: \$3,149,916

Work is required now to prevent further deterioration of roadways and to prevent incurring significant, additional costs in the future.

The sum of \$500,000 is placed in this account so that it can be reallocated in November to support the cost of installing a temporary footbridge for Davis Path.

In 1992, the Department of Public Works undertook a comprehensive study of its roads (331 streets which add up to 97.6 miles of paved surface) and implemented a pavement management system. The system was designed to bring Town-owned streets to a sufficient level of repair such that the roads could be maintained without undertaking costly full reconstruction. From 1992 to 1997, the Town made some progress in this regard, but funding was inconsistent. Starting in 1997, the Town began allocating \$1 million per year to streets, in addition to utilizing Chapter 90 funding from the State for certain thoroughfares.

Based on the recommendations of the 2007/2008 Override Study Committee, the 2008 Override approved by the voters included \$750,000 for streets and sidewalks, to be increased annually by 2.5%.

A subsequent assessment and report, indexing roadways according to their condition, noted that roadways with a 75 rating could be kept in good repair with maintenance instead of needing more expensive and time-consuming reconstruction. Reconstructing streets costs at least twice as much as performing preventative maintenance.

In 2014, there was a backlog of \$18,492,001, exclusive of curbing, sidewalks, etc.; in 2018 that backlog was approximately \$ 23.5 million, an increase of approximately \$1.2 million over 2016, attributable to inflation and deterioration. In order to maintain the PCI (Pavement Condition Index) that existed in 2014, the Town would have needed to invest approximately \$2 million dollars in street rehabilitation. As of 2018, to maintain a PCI rating of 73, the amount of needed funding was \$4 million. Stantec Consulting Services recommended that the minimal funding for road rehabilitation increase to \$3 million “to keep the network in ‘good’ condition and backlog relatively sustainable in the future.” [L] [SEP]

Beta Engineering has recently been hired to conduct a road conditions assessment/pavement management study and to present a report with findings and

recommendations. Town engineers give the current overall condition of Brookline roads a 67 or 68.

The pre-Covid 19FY 21 CIP calls for \$2,649,916 for Street Rehabilitation purposes. Warren Street from Lee Street to Heath Street and Woodland Road from Heath Street (west) to Hammond Street will receive 3” mill and overlay treatment. Walnut Street from Warren Street to Dudley Street; Crafts Road from Cleveland Road to Eliot Street; Lowell Road from Stanton Road to Greenough Street; and Columbia Road from the city line to Harvard Street will be reconstructed. Six other streets in North Brookline will be treated with a bonded wearing course, while 22 streets throughout the town will have surface cracks sealed and/or patched.

It should be noted that work on Warren Street, Walnut Street, Crafts Road, and Lowell Road will be undertaken with a combination of Town and State Funds.

STREET REHABILITATION - STATE
\$960,605 (No recommendation or vote required)

The State provides monies under its Chapter 90 program for improvements to certain streets. About 1/3 of Brookline's streets are eligible for 100% State reimbursement. This money supplements the funding appropriated from Town funds for street rehabilitation. Assuming an annual \$300 million statewide appropriation of Chapter 90 funds, the Town anticipates an annual State grant of \$960,605.

In FY 21, State funds will be combined with Town funds to undertake work on Warren Street, Walnut Street, Crafts Road, and Lowell Road.

44. SIDEWALK REPAIR
Recommendation: \$336,000
Necessary for Public Safety

Sidewalks that are not reconstructed as part of the street reconstruction program will be reconstructed with funds from DPW's Sidewalk Management Plan. Using the formula recommended by the 2007/2008 Override Study Committee and approved by voters in the 2008 Override, DPW has requested \$336,000 for sidewalk repair in FY 21.

In accordance with DPW policy, concrete rather than asphalt will be used in sidewalk reconstruction, except in cases determined by the Tree Warden in which asphalt will be used near street trees.

45. STORMWATER IMPROVEMENTS & PERMIT COMPLIANCE

Recommendation: \$300,000

Supported by Water and Sewer Enterprise Fund

The Environmental Protection Agency's Stormwater Phase II Rule establishes an MS4 stormwater management program that is intended to improve the Town's waterways by reducing the quantity of pollutants that stormwater picks up and carries into storm sewer systems during storm events. This project includes consulting services required for compliance with EPA's Phase II MS4 Permit and installation of structural lining in existing drain crossings along the MBTA C Line and D Line.

46. WATER METER MOBILE TRANSMISSION UNIT (MTU) REPLACEMENT

Recommendation: \$280,000

Supported by Water and Sewer Enterprise Fund

The Town's water meters and infrastructure were installed in 2006. The batteries of the mobile transmission units, which transfer meter consumption numbers to the collectors for billing are nearing the end of their useful life. This program will continue to replace all 10,000+/- units through FY 22.

47. WATER GARAGE ELEVATOR RENOVATION

Recommendation: \$260,000

Supported by Water and Sewer Enterprise Fund

The elevator in the Water Division Garage on Netherlands Road is one of 47 elevators, Limited Use/Limited Application, and wheelchair lifts in Town and School buildings. When a building is renovated, most elevators are upgraded, however others continue to age without improvements being made. Maintenance becomes an issue, with parts being increasingly difficult to find. The elevator's controller needs to be upgraded or replaced as technology progresses and older technology is not supported. The elevator in the Netherlands Road facility is twenty years old. This project will upgrade it with new equipment.

48. SCHICK PARK

Recommendation: \$0

Planning can be delayed without incurring additional significant cost.

In 1945, six house lots atop Aspinwall Hill were purchased from George B. Sargent for recreational purposes. The 1.1-acre “Addington Park” was opened five years later, and later renamed Lotta Bradburn Schick Park. Lotta Schick was a graduate of Wellesley College who was active in Brookline civic affairs for 35 years, 15 of which she served as a member of the School Committee. The park currently features picnic tables, a playground, paths/trails, basketball courts, a baseball/softball field, benches, and a picnic shelter. It was last renovated in 1997-8.

Accessed via Addington Road, Schick Park is in need of a full site renovation to meet new safety and accessibility requirements. Renovations will include new play equipment for older and younger children, repointing the stone walls, repair of the wooden picnic shelter, field renovation, fencing, paving and site furniture. FY 21 funds are requested for planning and design services.

49. PARKS AND PLAYGROUNDS REHABILITATION & UPGRADE

Recommendation: \$310,000

Funds to be used to address public safety-related repairs or replacements.

This annual, town-wide program directs CIP funds to the evaluation, repair and replacement of unsafe and deteriorating park, playground, fence, and field facilities or components. Items funded under this program include fences, gates, backstops, retaining walls, picnic furniture, turf restoration, infield refurbishment, bench replacements, play structures, safety surfacing, and drainage improvements. This program avoids more expensive rehabilitation that would be necessary if these items were left to deteriorate.

50. TOWN/SCHOOL GROUNDS REHAB

Recommendation: \$165,000

Funds to be used to address public safety-related repairs or replacements.

Town and School grounds require on-going structural improvements and repair. These funds will be applied to maintain or repair landscapes and hardscapes, including plant installation, regrading, reseeding, tree work, repair to concrete or asphalt walkways through the site, trash receptacles, bike racks, drainage improvements, retaining walls, and repairs to stairs, treads, railings, benches, or other exterior structures. This funding does not include replacement of areas over building structures or directly connected to the buildings, such as entrance stairways and ramps into the buildings. Projects such as those are under the Building Department's jurisdiction. This program avoids more expensive rehabilitation that would be necessary if these items were left to deteriorate.

**51. TREE REMOVAL AND REPLACEMENT / URBAN FORESTRY
MANAGEMENT**

Recommendation: \$235,000

Funds to be used for the removal of trees before they become public safety hazards and for structural and safety pruning of trees in parks and playgrounds.

The tree removal and replacement program represents the Town's effort to balance street tree removals with plantings. It is critical to remove trees that have matured or have been impacted by storm damage or disease before they become public safety hazards. New tree plantings are also critical since they directly impact the tree-lined character of the community, improve storm water quality, provide oxygen, and reduce heat impact in the summer. Both the planting and watering of new trees are in-house operations, resulting in cost savings and better quality control.

There are other uses for the funds within this CIP allocation, including the removal of trees identified as safety hazards or concerns in the Town's four conservation areas and in its parks as well as structural and safety pruning of trees in the parks. In addition, funds may be used for new trees, planted in anticipation of the ultimate loss of existing mature trees.

Approximately 200 trees are removed and 350-450 replacement trees are purchased each year. Last year 223 trees were removed. In February of this year 303 trees representing 34 different species were purchased to be planted on the Town's streets in the spring. It is important to note the growing gap between contractual services related to tree removal and replanting and currently available funds.

This line item also includes funding for Urban Forestry Management in the Town's parks and open spaces. Storm damage, disease, and old age continue to reduce tree canopies. The funds are utilized to address such needs as tree removal, crown thinning, soil amendments, woodland canopy gap management, removal of invasive species, pest management, health and structural pruning, and planting. Such measures have been developed with the goals of supporting resistance to disease and pests and countering the rapid decline of trees left unmanaged in an urban environment. Work in this regard continues to be undertaken in collaboration with the Olmsted Tree Society of the Emerald Necklace Conservancy.

52. SCHOOL FURNITURE

Recommendation: \$0

Purchase can be delayed without incurring additional significant costs.

Outdated and worn school furniture in all schools is replaced on an annual basis. When an individual school is completely renovated or expanded, most or all of the furniture gets replaced as part of the project. Under such circumstances, furniture that is still in good condition is allocated to other buildings, as appropriate. Furniture/furnishings for science and art rooms as well as gymnasiums is often significantly more expensive than traditional classroom furniture. Some furniture becomes obsolete before wearing out.

53. HVAC EQUIPMENT

Recommendation: \$150,000

Funds to be used in efforts to reach goal to achieve zero emissions by 2050.

The HVAC Equipment Program is intended to undertake proactively, rather than reactively, the replacement of the larger and more expensive parts of boilers, air conditioners (including compressors), and other HVAC equipment before an emergency arises. The cost of this type of work exceeds the limits of the Building Department's Operations and Maintenance budget, hence the creation of this program within the CIP.

Current plans call for replacing air conditioning compressors and upgrading equipment, starting with the oldest equipment and working in the off-season. There are currently 199 permanent air conditioning systems in both Town and School buildings. Their sizes range from two to 100+ tons and many are 10 years or older. Typically, air conditioning compressors last between five and 10 years, and replacement costs can range from \$3,500 to \$150,000, depending on the size of the system.

HVAC Equipment funds are also used to replace gas-fired equipment with equipment for heat and for hot water that does not use fossil fuels, thus working towards meeting the Town's goal to achieve zero emissions by 2050. FY 21 funds will be directed towards the purchase and installation of split-unit heat pumps and air handling units in various spaces of the Baker School

54. UNDERGROUND TANK REMOVAL

Recommendation: \$0

Underground tanks have not reached the limit of their warranties.

There are 26 underground oil tanks located on school and municipal building sites throughout the town. They have 30-year warranties, but some of the tanks are approaching 25 years of age. The current schedule calls for 17 of these tanks to be removed and replaced. CIP funds would be used to remove the large tanks with capacities of between 5,000-15,000 gallons and replace them with aboveground tanks with a capacity of 1000 gallons or less, inside the buildings. Older, 275-gallon underground

tanks would be replaced with new tanks of the same size, also aboveground and inside the buildings.

Existing boilers and burners are currently functioning well and do not merit replacement. They are designed to use either natural gas or oil. New, aboveground oil tanks inside the buildings provide the assurance that the buildings will be kept heated in case of an emergency or gas shortage.

If funds become available from the Commonwealth's Underground Storage Tank Fund, 50% of the cost of removal (generally \$50,000) would be reimbursable, thus potentially expanding the scope of the FY 21 program, which currently includes tanks at the Old Lincoln, Baker, Heath and Baldwin Schools and at Town Hall.

55. TOWN/SCHOOL BUILDING - ADA RENOVATIONS

Recommendation: \$80,000

Funds necessary to bring public buildings into compliance with the Americans with Disabilities Act

Support for this annual program of improvements is requested to bring Town and School buildings into compliance with the Americans with Disabilities Act (ADA), which requires that the Town make public buildings accessible to all.

FY 20 funds have been budgeted to widen a door at the High School, to modify a family changing room at the Kirrane Aquatic Center, to add vision tape to the staircases at the Driscoll School, and to install automatic door openers at the main branch of the library.

In FY 21 funds will be enable the Town to continue to respond to requests for ADA accommodations in public buildings.

56. TOWN/SCHOOL ELEVATOR RENOVATION PROGRAM

Recommendation: \$200,000

Necessary for Public Safety

There are 47 elevators, LULAs (Limited Use/Limited Application), and wheelchair lifts throughout Town and School buildings. When a building is renovated, most elevators are upgraded (new controls, motors, cables, refurbishment of the car, etc.). Some elevators are also partially upgraded to meet the requirements of the existing building codes. The buildings that have not been renovated have elevators that are close to 30 years old. Maintenance is an issue and parts are increasingly difficult to find. The elevator's controller is basically a computer. The controller needs to be upgraded or replaced as

technology progresses and older technology is not supported. This project would upgrade those cars and lifts with new equipment.

Full funding has been secured for the modernization of the elevators at the Unified Arts Building and the Lynch Recreation Center. Other elevators due for renovation include those at the Sperber Education Center, High School, Municipal Service Center, Water Department building on Netherlands Road, Baker School, and Senior Center. It is anticipated that the modernization of the elevators at the High School will be undertaken as part of the High School Renovation and Expansion Project, while funding for the elevator in the Water Department Building will come from the Water and Sewer Enterprise Fund. FY 21 funds will enable work to proceed with the elevator in the Municipal Service Center.

57. TOWN/SCHOOL BUILDING - ENERGY CONSERVATION

Recommendation: \$190,000

Project contributes to efforts to reach goal to achieve zero emissions by 2050

Efforts to decrease energy consumption in Town and School buildings include, but are not limited to, lighting retrofit and controls, energy efficient motors, insulation, and heating and cooling equipment. This program augments existing gas and electric utility conservation programs along with Green Communities Grants.

FY 20 funds supported the installation of LED lights at the new Lincoln School (Phase 2) and the Health Department and the installation of fans in the Baker School auditorium, gym, cafeteria, and multi-purpose room.

Plans call for FY 21 funds to be use for Phase Two of LED lighting at the Main Library (representing a savings of approximately 25,000 KWH per year; LED lighting at the Putterham Clubhouse (representing a savings of approximately 3500 KWH per year); and LED lighting at the Public Safety Building (representing a savings of approximately 5,000 KWH per year. In addition, funds will be used to install variable frequency drives on the pumps at the Municipal Services Center and Main Library (representing a savings of approximately 3000 and 4500 KWH per year, respectively).

58. TOWN/SCHOOL BUILDING - ENERGY MANAGEMENT SYSTEM

Recommendation: \$125,000

Project contributes to efforts to reach goal to achieve zero emissions by 2050

This project's purpose is to upgrade the energy management systems in Town and School buildings. A few of the larger buildings have older (30 years) energy management systems that have exceeded their life expectancy and replacement parts are no longer available. These systems will be replaced and upgraded with new web-based systems integrated into the Town's existing computer network. Other systems will be upgraded with newer software or firmware. The Building Department will continue to work with the Information Technology Department on these projects.

Plans for FY 21 include replacing the existing Siemens system for the High School complex with Johnson Controls and upgrading software for the server as well as replacing older controllers at the Soule Recreation Center, Soule Gym, and Lawrence School with Johnson controllers, which are electronic devices for digital control of packaged air handling units, unit ventilators, fan coils, heat pumps, and other terminal units serving a single zone or room.

59. PUBLIC BUILDING FIRE ALARMS UPGRADES

Recommendation: \$300,000

Necessary for Public Safety

The Town engaged with Garcia, Galuska & Desousa to conduct a study to assess the existing fire alarm and fire protection systems. The funding will allow the Building Department to address the recommendations in the study to properly maintain and upgrade these systems, including replacing the panels and fire alarm devices.

On the list for FY 21 are the Heath and Lawrence Schools, Water Department building on Netherlands Road, and the Soule Recreation Center and gym.

60. TOWN/SCHOOL BUILDING - SECURITY/LIFE SAFETY SYSTEMS

Recommendation: \$90,000

Necessary for Public Safety

In past years, several large capital projects have been undertaken that included security improvements in Town and School buildings. This program will extend the effort and improve areas where security may be lacking. These funds would also be used to continue the on-going process of replacement and installation of new and upgraded burglar alarms, sprinkler systems, emergency lighting, and egress signs.

FY 20 funds have been budgeted for the replacement of the keycard system in the Public Safety Building; upgrading additional cameras at Town Hall from analog to digital, fire escape inspections, and in school buildings, installing Lock Down buttons to call police, burglar alarms, and other security enhancements.

Work planned for FY 21 includes additional keycard readers, camera upgrades from analog to digital, sprinkler modification in the “lower” Town Hall garage, inspections of plaster ceilings, upgrades for the Aiphone systems (used to permit entry in a school building), and other security measures including the ongoing replacement of doors, door frames, and locks, as needed.

61. CLASSROOM CAPACITY

Recommended- \$2,015,251

This amount will provide sufficient funds for leased space at 2 Clark Road and Temples Emeth and Ohabei Shalom in FY 21 and a portion of the lease payments in FY22.

Classroom Capacity funds are used to meet the space needs of PSB’s students and staff. For the first few years of the account, funds supported “Expand in Place” efforts, including the lease-purchase of modular classrooms. More recently the funds have been used to lease space at 62 Harvard Street for Pierce School classrooms, 20 Webster Place for administrative offices, Temple Ohabei Shalom and Temple Emeth for BEEP classrooms, and most recently to lease the K-2 Maimonides School building at 2 Clark Road. The current lease covers 16 classrooms, parking, play areas, and other educational spaces.

As of April 1, 2020, plans for FY 21 (Year 3 of the 2 Clark Road lease), call for the

facility to be used for at least six BEEP classes as well as a number of School Department offices.

The recommended sum of \$2,015,251 covers lease payments for BEEP classrooms and PSB administrative offices in FY 21 and provides approximately \$500,000 in forward funding.

The operating expenses of 2 Clark Road (\$200,00), which include utilities, repair and maintenance, technology and snow removal, are charged to the operating budgets of DPW, IT and the Building Department, all of which are therefore increased to cover these services.

62. WATER SYSTEM IMPROVEMENTS

Recommendation: \$2,000,000 (Utility Bond)

Supported by Water and Sewer Enterprise Fund

The plan for Water System Improvements has three primary objectives: 1) system redundancy elimination; 2) fire flow improvement; and 3) identification and replacement of water mains prone to leaks and/or breaks. Requests for funds for improvements will continue yearly through FY 26.

63. WASTEWATER SYSTEM IMPROVEMENTS

Recommendation: \$3,000,000 (Utility Bond)

Supported by Water and Sewer Enterprise Fund

This on-going project provides funding for the rehabilitation of the wastewater collection system (sanitary sewer). Rehabilitation was based on the recommendations of the Wastewater Master Plan completed in 1999. Previously construction projects to correct sewer system deficiencies targeted: 1) structural improvements, 2) sewer and storm drain separation and 3) hydraulic capacity restoration. Moving forward the primary focus will be on the removal of inflow and infiltration sources with the overall goals of eliminating sewerage backups into homes and businesses and lowering MWRA wholesale costs by reducing extraneous flows. This project should ultimately enhance the efficiency of the wastewater collection system and help to lower MWRA wholesale costs.

64. LARZ ANDERSON PARK

Recommendation: \$2,200,000 (General Fund Bond)

Action required now to prevent further deterioration of the Park’s infrastructure and incurring greater costs in the future

Comprising over 65 acres, Larz Anderson Park, listed on the National and State Registers of Historic Places, is the largest park in Brookline and the flagship park of the Town. Within its borders are not only architecturally significant buildings but also athletic fields, play equipment, picnic areas, walking paths, an ice rink, significant trees, a lagoon, sweeping slopes and magnificent views of the City of Boston.

After \$2,200,000 in FY 21 CIP dollars are added to funds approved in previous years, work can commence on roadway and path improvements, restoration of the “Temple of Love” next to the lagoon, and stabilization and repair of the walls at the top of the hill.

65. ROBINSON PLAYGROUND

Recommendation: \$0 (General Fund Bond)

Renovation of the playground can be delayed without incurring additional significant cost.

The Margaret E. Robinson Playground is a 2.38-acre park located at Cypress and Franklin Streets in a densely populated neighborhood. It was built on the site of the car barn lot for the Boston Elevated Railway Company in the 1890s. Current playground facilities include a youth baseball/softball field, paved basketball court, multi-use court play area, playground equipment, picnic area, and water play. The Playground is a participant in the Green Dog Program.

Renovation plans include new playground equipment for older and younger children; water play, new irrigation and field renovation; basketball and multi-use court improvements; pathway and drainage improvements; and fence replacement.

66. TOWN/SCHOOL BUILDING – ROOF REPAIR/REPLACEMENT PROGRAM

Recommendation: \$3,100,000 (General Fund Bond)

Work is required now to prevent incurring additional significant costs in the future.

A master plan for repair and replacement of roofs on all Town and School buildings was prepared by a consultant. The plan includes a priority list and schedule and calls for \$29.3 million over a 20-year period.

The originally prepared list of roofs for repair/replacement in FY 21 included indoor pavilion of Larz Anderson Skating Rink (painted steel roof - \$24,015); New Lincoln cafeteria building (shingle - \$150,097); Pierce Primary building (EPDM - \$30,019) Lawrence School (\$1,601,032); and the Heath School (EPDM roof - \$1,100,710). (The Heath School is slated for the installation of solar panels so its roof should be replaced before the panels are installed.)

Recent examinations of Town roof conditions revealed water infiltration between layers of roofing in several buildings. Such a situation could result in additional damage and greater expense in future years, consequently going forward, the above-list above may be modified.

VOTED: To approve the budget for fiscal year 2021 set forth in the attached Tables I and II. The Advisory Committee took this vote in 3 motions

- 1- Items 23-66 FAVORABLE ACTION 21-0-8
- 2- Items 1-22 with the exception of the Police Budget (item 10) FAVORABLE ACTION 27-1-1
- 3- Item 10 Police budget (\$66,440 reduction from revised budget), and corresponding amendment to item 4, DICR budget FAVORABLE ACTION 24-3-0

to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

1.) TRANSFERS AMONG APPROPRIATIONS: Transfers between the total departmental appropriations separately set forth in Tables 1 and 2 shall be permitted by vote of Town Meeting or as otherwise provided by Massachusetts General Laws Chapter 44, Section 33B(b). Within each separate departmental appropriation, expenditures shall be restricted to the expenditure object classifications set forth in the recommendation of the Advisory Committee, and voted by the Town Meeting, for each department, subject to the following exceptions:

- A) Expenditures within the appropriation for the School Department shall not be restricted.

- B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Select Board and Advisory Committee:
- i) Transfers from the appropriation for the capital outlay object classification to any other object classification.
 - ii) Transfers to the appropriation for the personal services object classification from any other object classification.
 - iii) Any transfer which has the effect of increasing the number of positions or the compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.
 - viii) Transfers within the Department of Public Works from the Parks Division to any other purpose.
 - ix) Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.
 - x) With respect to item # 23d that \$2M of appropriated funds not be transferred to the trust until 12/1/2020
- C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.
- D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Select Board, and upon the condition that written notice of each such approval shall be submitted promptly to the Advisory Committee and Town Comptroller.

2.) PROCUREMENT CONTRACTS AND LEASES: The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2021 budget, and to solicit and award contracts for terms of not more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Select Board.

3.) ALLOCATION OF SALARY ADJUSTMENTS: Appropriations for salary and wage adjustments (Item #20) shall be transferred by the Town Comptroller to the various affected

departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Select Board shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personnel Services Reserve (Item #19), which shall be used to fund costs incurred over the course of the fiscal year pursuant to employee contracts and/or established personnel policies. The Town Comptroller shall include an accounting of all transfers made from this reserve in the Annual Financial Report.

4.) STIPENDS / SALARIES OF ELECTED OFFICIALS: The stipends of members of the Select Board shall be at the rate of \$4,500 per year for the Chair and at the rate of \$3,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of \$114,585 effective July 1, 2020, plus any adjustment approved by vote of the Select Board. The Town Clerk shall pay all fees received by the Town Clerk by virtue of his office into the Town treasury for Town use.

5.) VACANT POSITIONS: No appropriation for salaries, wages, or other compensation shall be expended for any benefit-eligible position which has become vacant during the fiscal year unless the Select Board, at an official meeting, has determined that the filling of the vacancy is either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.

6.) GOLF ENTERPRISE FUND: The following sums, totaling \$1,881,691 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

Salaries	\$689,557
Purchase of Services	\$264,901
Supplies	\$340,485
Other	\$11,500
Utilities	\$103,414
Capital	\$95,800
Debt Service	\$137,038
Reserve	<u>\$25,000</u>
Total Appropriations	\$1,667,695
Indirect Costs	<u>\$213,996</u>
Total Costs	\$1,881,691

Total costs of \$1,881,691 to be funded from golf receipts with \$213,996 to be reimbursed to the General Fund for indirect costs.

7.) WATER AND SEWER ENTERPRISE FUND: The following sums, totaling \$29,239,144, shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	<u>Water</u>	<u>Sewer</u>	<u>Total</u>
Salaries	2,390,649	449,001	2,839,650
Purchase of Services	172,398	149,000	321,398
Supplies	108,220	16,000	124,220
Other	13,900	3,180	17,080
Utilities	91,561	0	91,561
Capital	200,300	226,269	426,569
Intergovernmental	7,522,794	13,750,203	21,272,997
Debt Service	436,709	1,279,212	1,715,921
Reserve	<u>0</u>	<u>0</u>	<u>0</u>
Total Appropriations	10,936,531	15,872,865	26,809,396
Indirect Costs	<u>1,914,874</u>	<u>514,873</u>	<u>2,429,747</u>
Total Costs	12,851,406	16,387,738	29,239,144

Total costs of \$29,239,144 to be funded from water and sewer receipts with \$2,429,747 to be reimbursed to the General Fund for indirect costs.

8.) REVOLVING FUNDS:

- a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed \$4,200,000.
- b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed \$225,000.
- c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed \$100,000.
- d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed \$30,000.
- e.) The Library Director is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Copier Program. Annual expenditures from the fund shall not exceed \$30,000.
- f.) The School Department is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the School bus Program. Annual expenditures from the fund shall not exceed \$75,000.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of \$5,460,368, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The

feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

10.) SNOW AND ICE BUDGET: The sum of \$584,810, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article 8.

11.) INTERFUND TRANSFERS: In order to fund the appropriations voted for the various departments itemized on Table 1, the Town Comptroller is authorized to make the following interfund transfers:

Cemetery Sales Special Revenue Fund [to the General Fund for the Department of Public Works]	\$ 100,000
Recreation Revolving Fund [to the General Fund for benefits reimbursement]	\$471,027

12.) BUDGETARY REPORTING: The Town Comptroller shall provide the Advisory Committee with a report on the budgetary condition of the Town as of September 30, December 31, March 31, and June 30, within 45 days of said dates. This financial report shall include a summary of the status of all annual and special appropriations voted in this article; a report on the status of all special appropriations voted in prior years which remain open at the reporting date; and a summary of the status of all revenues and inter-fund transfers which have been estimated to finance the appropriations voted under this article.

13.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 35 through 69, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #64 - 69, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

Appropriate sums of money for the following special purposes:

- 36.) Appropriate \$0, to be expended under the direction of the Building Commissioner with any necessary contracts over \$100,000 to be approved by the Select Board for repairs to garage floors. **NOT MOVED**
- 37.) Appropriate \$60,000, to be expended under the direction of the Building Commissioner for the rehabilitation of Town buildings.

- 38.) Appropriate \$450,000, to be expended under the direction of the Fire Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for replacement of the fire station alerting system.
- 39.) Appropriate \$900,000, to be expended under the direction of the Police Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.
- 40.) Appropriate \$81,500, to be expended under the direction of the Commissioner of Public Works, with the approval of the Select Board, for traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Select Board on a semi-annual basis. To meet the appropriation transfer \$81,500 from the Parking Meter Fund.
- 41.) Appropriate \$125,000, with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for bicycle access improvements.
- 42.) Appropriate \$216,000 with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for parking meter technology upgrades. To meet the appropriation transfer \$216,000 from the Parking Meter Fund.
- 43.) Appropriate \$3,149,916, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of streets. To meet the appropriation transfer \$859,916 from the Parking Meter Fund.
- 44.) Appropriate \$336,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of sidewalks.
- 45.) Appropriate \$300,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for storm water improvements. and to meet the appropriation transfer \$300,000 from the retained earnings of the Water and Sewer Enterprise Fund.
- 46.) Appropriate \$265,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water meter transmission unit (MTU) replacements, and to meet the appropriation transfer \$265,000 from the retained earnings of the Water and Sewer Enterprise Fund

- 47.) Appropriate \$260,000, to be expended under the direction of the Building Commissioner with any necessary contracts over \$100,000 to be approved by the Select Board for repairs to the elevator at the Netherland's Road facility and to meet the appropriation transfer \$260,000 from the retained earnings of the Water and Sewer Enterprise Fund.
- 48.) Appropriate \$0, to be expended under the direction of the Commissioner of Public Works, for the design of the renovation of Schick Playground. **NOT MOVED**
- 49.) Appropriate \$310,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the renovation of playground equipment, fields, and fencing.
- 50.) Appropriate \$165,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of Town and School grounds.
- 51.) Appropriate \$235,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board and the Tree Planting Committee, for the removal and replacement of trees.
- 52.) Appropriate \$0, to be expended under the direction of the Chief Procurement Officer for school furniture upgrades. **NOT MOVED**
- 53.) Appropriate \$150,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for HVAC equipment in Town and School facilities.
- 54.) Appropriate \$0, to be expended under the direction of the Building Commissioner for the removal of underground tanks at Town and School facilities. **NOT MOVED**
- 55.) Appropriate \$80,000, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.
- 56.) Appropriate \$200,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for elevator renovations in Town and School facilities.
- 57.) Appropriate \$190,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for energy conservation projects in Town and School facilities.
- 58.) Appropriate \$125,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the

Select Board, for upgrades to energy management systems in Town and School facilities.

- 59.) Appropriate \$300,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for fire alarm upgrades in Town and School facilities.
- 60.) Appropriate \$160,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Board of Select Board and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.
- 61.) Appropriate \$1,644,831, to be expended under the direction of the School Superintendent, with any necessary contracts to be approved by the Select Board and School Committee, for the expansion of classroom capacity in various schools.
- 62.) Appropriate \$2,000,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow \$2,000,000 under General Laws, Chapter 44, Section 8(5), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
- 63.) Appropriate \$3,000,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for wastewater system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow \$3,000,000 under General Laws, Chapter 44, Section 7(9), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

- 64.) Appropriate \$2,200,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements at Larz Anderson Park and to meet the appropriation authorize the Treasurer, with the approval of the Select Board, to borrow \$2,200,000, under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
- 65.) Appropriate \$0 to be expended under the direction of the Commissioner of Public Works, for the renovation of Robinson Playground. **NOT MOVED**
- 66.) Appropriate \$3,100,000, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for roof repairs/replacements to Town and School facilities and to meet the appropriation, authorize the Treasurer with the approval of the Selectmen, to borrow \$3,100,000 under General Law, Chapter 44, Section 7 (3A), as amended, or pursuant to any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
- 14.) **FREE CASH:** Appropriate and transfer \$11,065,720 from free cash for the following purposes:
- e.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – \$2,251,677;
 - f.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – \$50,529;
 - g.) Stabilization Fund (MGL Chapter 40, Section 5B) - \$1,000,000
 - h.) Reduce the tax rate (Special Appropriations) – \$6,766,965;
 - i.) Housing Trust Fund – \$726,549;

FY2021 BUDGET - TABLE 1 JUNE, 2020

	FY18 ACTUAL	FY19 ACTUAL	FY20 BUDGET	FY21 BUDGET AC	\$\$ CHANGE FROM FY20	% CHANGE FROM FY20
REVENUES						
Property Taxes	211,374,488	224,490,569	238,487,743	254,898,615	16,410,872	6.9%
Local Receipts	36,277,400	35,725,309	31,120,219	27,051,609	(4,068,610)	-13.1%
State Aid	20,352,973	22,112,759	22,386,947	19,455,995	(2,930,952)	-13.1%
Free Cash	8,354,017	8,427,936	9,081,257	11,065,720	1,984,463	21.9%
Other Available Funds	3,050,446	4,872,678	3,349,771	4,390,037	1,040,267	31.1%
TOTAL REVENUE	279,409,325	295,629,251	304,425,937	316,861,976	12,436,039	4.1%
EXPENDITURES						
DEPARTMENTAL EXPENDITURES						
1 . Select Board	738,119	708,050	831,487	791,662	(39,825)	-4.8%
2 . Human Resources	755,582	498,780	648,415	594,485	(53,930)	-8.3%
3 . Information Technology	1,922,893	2,077,848	2,054,746	2,080,259	25,513	1.2%
4 . Diversity, Inclusion, and Community Rel	228,918	301,017	281,088	327,515	46,427	16.5%
5 . Finance Department	3,372,305	3,280,214	3,447,845	3,286,233	(161,612)	-4.7%
<i>a. Comptroller</i>	588,341	650,453	705,540	686,819	(18,721)	-2.7%
<i>b. Purchasing</i>	661,607	724,872	744,019	697,235	(46,784)	-6.3%
<i>c. Assessing</i>	694,167	735,490	732,477	738,659	6,182	0.8%
<i>d. Treasurer</i>	1,428,190	1,169,399	1,265,809	1,163,520	(102,289)	-8.1%
6 . Legal Services	1,055,753	1,166,351	1,155,413	1,057,022	(98,391)	-8.5%
7 . Advisory Committee	21,427	23,805	28,520	28,520	0	0.0%
8 . Town Clerk	562,943	758,640	669,914	750,024	80,110	12.0%
9 . Planning and Community Development	1,006,669	1,184,050	1,235,485	1,123,926	(111,559)	-9.0%
<i>a. Planning & Administration</i>	665,737	795,520	788,247	764,962	(23,285)	-3.0%
<i>b. Housing</i>	83,864	79,632	102,096	97,683	(4,413)	-4.3%
<i>c. Preservation</i>					0	
<i>c. Economic Development</i>	257,068	308,897	345,141	261,281	(83,860)	-24.3%
10 . Police	16,151,311	18,578,613	18,159,039	17,436,626	(722,413)	-4.0%
11 . Fire	15,070,184	15,586,571	15,998,841	15,822,908	(175,933)	-1.1%
12 . Building	7,653,367	5,511,493	8,613,272	8,746,246	132,974	1.5%
(1) 13 . Public Works	16,336,101	16,069,996	16,015,170	16,008,198	(6,972)	0.0%
<i>a. Administration</i>	885,065	911,556	954,995	950,304	(4,691)	-0.5%
<i>b. Engineering/Transportation</i>	1,179,727	1,306,949	1,374,345	1,350,119	(24,226)	-1.8%
<i>c. Highway</i>	4,944,741	5,532,652	5,348,245	5,103,753	(244,492)	-4.6%
<i>d. Sanitation</i>	3,267,293	3,246,937	3,586,207	4,030,333	444,126	12.4%
<i>e. Parks and Open Space</i>	3,766,756	3,912,389	4,166,568	3,988,879	(177,689)	-4.3%
<i>f. Snow and Ice</i>	2,292,518	1,159,513	584,810	584,810	0	0.0%
14 . Library	4,147,017	4,249,242	4,317,382	3,960,760	(356,622)	-8.3%
15 . Health and Human Services	1,181,028	1,408,011	1,405,442	1,568,639	163,197	11.6%
16 . Veterans' Services	303,845	201,513	346,074	312,087	(33,987)	-9.8%
17 . Council on Aging	902,328	954,436	992,321	913,379	(78,942)	-8.0%
18 . Recreation	1,027,649	983,211	1,116,669	1,034,617	(82,052)	-7.3%
(2) 19 . Personnel Services Reserve	715,000	715,000	715,000	715,000	0	0.0%
(2) 20 . Collective Bargaining - Town	784,317	1,400,693	2,470,000	1,910,000	(560,000)	-22.7%
<i>Subtotal Town</i>	<i>72,437,441</i>	<i>73,541,840</i>	<i>77,317,123</i>	<i>78,468,106</i>	<i>1,150,983</i>	<i>1.5%</i>
21 . Schools	105,196,458	110,918,206	117,385,106	118,998,990	1,613,883	1.4%

		FY18 ACTUAL	FY19 ACTUAL	FY20 BUDGET	FY21 BUDGET AC	\$\$ CHANGE FROM FY20	% CHANGE FROM FY20
	22 . Vocational Education Assessments	21,753	13,878	92,895	92,895	0	-
	Subtotal Education	105,218,211	110,932,084	117,478,001	119,091,885	1,613,883	1.4%
	TOTAL DEPARTMENTAL EXPENDITURES	177,655,652	184,473,924	196,468,814	197,559,990	1,091,177	
	NON-DEPARTMENTAL EXPENDITURES						
(1)	23 . Employee Benefits	59,317,285	62,487,155	66,438,626	68,518,848	2,080,222	3.1%
(3)	a. Pensions	21,519,358	23,785,769	24,915,433	26,569,845	1,654,412	6.6%
	b. Group Health	29,055,009	29,632,981	31,650,811	32,701,792	1,050,981	3.3%
	c. Health Reimbursement Account (HRA)	0	0	0	0	0	
(3)	d. Retiree Group Health Trust Fund (CRF)	4,480,080	4,570,465	4,781,980	4,181,979	(600,001)	-12.5%
	e. Employee Assistance Program (EAP)	22,825	0	0	0	0	#DIV/0!
	f. Group Life	132,145	132,351	145,000	145,000	0	0.0%
	g. Disability Insurance	13,436	43,808	46,000	46,000	0	0.0%
(3)	h. Worker's Compensation	1,450,000	1,450,000	2,050,000	1,850,000	(200,000)	-9.8%
(3)	i. Public Safety IOD Medical Expenses	200,000	200,000	0	0	0	#DIV/0!
(3)	j. Unemployment Compensation	200,000	200,000	200,000	200,000	0	0.0%
	k. Medical Disabilities	15,709	18,846	40,000	40,000	0	0.0%
	l. Medicare Coverage	2,228,723	2,452,935	2,609,403	2,784,233	174,830	6.7%
(2)	24 . Reserve Fund	1,939,266	1,785,722	2,689,494	4,620,855	1,931,361	71.8%
	25 . HCA Reserve Fund	0	0	0	701,485	701,485	-
	26 . Stabilization Fund	0	0	0	1,000,000	1,000,000	-
	27 . Affordable Housing	576,803	545,112	200,000	726,549	526,549	263.3%
	28 . Liability/Catastrophe Fund	203,644	456,762	389,700	49,729	(339,971)	-87.2%
	29 . General Insurance	334,959	416,563	507,952	703,507	195,555	38.5%
	30 . Audit/Professional Services	123,252	131,994	142,000	142,000	0	0.0%
	31 . Contingency Fund	11,874	14,754	15,000	10,000	(5,000)	-33.3%
	32 . Out-of-State Travel	110	1,677	3,000	0	(3,000)	-100.0%
	33 . Printing of Warrants & Reports	44,567	54,633	55,000	45,000	(10,000)	-18.2%
	34 . MMA Dues	12,588	13,121	13,553	13,891	338	2.5%
	Subtotal General	3,247,063	3,420,338	4,015,699	8,013,016	3,997,317	99.5%
(1)	35 . Borrowing	12,577,453	15,631,273	18,828,262	25,204,625	6,376,363	33.9%
	a. Funded Debt - Principal	9,007,500	10,195,000	11,952,053	13,674,000	1,721,947	14.4%
	b. Funded Debt - Interest	3,566,569	4,977,927	6,716,209	11,237,370	4,521,161	67.3%
	c. Bond Anticipation Notes	0	456,250	100,000	233,256	133,256	133.3%
	d. Abatement Interest and Refunds	3,384	2,095	60,000	60,000	0	0.0%
	TOTAL NON-DEPARTMENTAL EXPENDITURES	75,141,801	81,538,766	89,282,587	101,736,489	12,453,903	13.9%
	TOTAL GENERAL APPROPRIATIONS	252,797,453	266,012,690	285,751,400	299,296,480	13,545,079	4.7%
	SPECIAL APPROPRIATIONS						
	36 . Repairs to Garage Floors (revenue financed)					No motion	
	37 . Town Building Rehab/Upgrade (revenue financed)				60,000		
	38 . Fire Station Alerting System Replacement (revenue financed)				450,000		
	39 . Police/Fire Radio Infrastructure (revenue financed)				900,000		
	40 . Traffic Calming / Safety Improvements (transfer from parking meter fund)				81,500		
	41 . Bicycle Access Improvements (revenue financed)				125,000		
	42 . Parking Meters (transfer from Parking Meter Fund)				216,000		
	43 . Street Rehab. (rev financed (\$1.79M) + Parking meter fund (\$859,916))				3,149,916		

	FY18 ACTUAL	FY19 ACTUAL	FY20 BUDGET	FY21 BUDGET AC	\$\$ CHANGE FROM FY20	% CHANGE FROM FY20
44 . Sidewalk Repair/Reconstruction (revenue financed)				336,000		
45 . Stormwater Improvements (revenue financed Water and Sewer fund)				300,000		
46 . Water Meter MTU Replacement (revenue financed Water and Sewer fund)				265,000		
47 . Water Garage Elevator Renovation (revenue financed Water and Sewer fund)				260,000		
48 . Schick Playground (revenue financed)				0	No motion	
49 . Playground Equipment, Fields, Fencing (revenue financed)				310,000		
50 . Town/School Grounds Rehab (revenue financed)				165,000		
51 . Tree Removal and Replacement (revenue financed)				235,000		
52 . School Furniture Upgrades (revenue financed)				0	No motion	
53 . HVAC Equipment (revenue financed)				100,000		
54 . Underground Tank Removal (revenue financed)				0	No motion	
55 . Town/School ADA Renovations (revenue financed)				80,000		
56 . Town/School Elevator Renovation Program (revenue financed)				200,000		
57 . Town/School Energy Conservation Projects (revenue financed)				190,000		
58 . Town/School Energy Management Systems (revenue financed)				125,000		
59 . Public Building Fire Alarm upgrades (revenue financed)				300,000		
60 . Town/School Bldg Security / Life Safety Systems (revenue financed)				160,000		
61 . Classroom Capacity (revenue financed)				1,644,831		
62 . Water System Improvements (utility bond)				2,000,000		
63 . Wastewater System Improvements (utility bond)				3,000,000		
64 . Larz Anderson Park (bond)				2,200,000		
65 . Robinson Playground (bond)				0	No motion	
66 . Town/School Roof Repair/Repl. Program (bond)				3,100,000		
(4) TOTAL REVENUE-FINANCED SPECIAL	9,720,862	10,979,868	9,949,094	8,828,250	(1,120,844)	-11.3%
TOTAL APPROPRIATED EXPENDITUR	262,518,315	276,992,558	295,700,495	308,124,730	12,424,235	4.2%
NON-APPROPRIATED EXPENDITURES						
Cherry Sheet Offsets	86,983	88,500	89,070	86,027		
State & County Charges	6,492,524	6,672,137	6,826,231	6,796,134		
Overlay	1,722,221	1,762,675	1,785,140	1,830,085		
Deficits-Judgments-Tax Titles	25,000	25,000	25,000	25,000		
TOTAL NON-APPROPRIATED EXPEND	8,326,728	8,548,312	8,725,441	8,737,246	11,805	0.1%
TOTAL EXPENDITURES	270,845,043	285,540,869	304,425,936	316,861,975	12,436,040	4.1%
SURPLUS/(DEFICIT)	8,564,281	10,088,382	0	0	0	

(1) Breakdown provided for informational purposes.

(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.

(3) Funds are transferred to trust funds for expenditure.

(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borr

ARTICLE 8

**AMENDMENT OFFERED BY NEIL GORDON, TMM-1
& MARTIN ROSENTHAL, TMM-9, FOR BROOKLINE PAX**

MOVED: to amend the Advisory Committee’s main motion under Article 8 by adding the following additional Condition of Appropriations, appropriately numbered: Except for a seeming emergency, no Town or outside grant funds shall be expended, including to pay staff, for purchase, acquisition, or deployment of “Riot Gear,” including from a non-Brookline agency, except by vote of the Select Board (“S/Bd”) as Police Commissioners, after a public hearing with no less than 14 days prior public notice - - with early and broad dissemination of the proposed vote, including related documents. For a seeming emergency meriting immediate need of a specific item, the Chief shall notify the S/Bd Chair, who may authorize immediate purchase, acquisition, or use of that item, pending a hearing as stated above, to be scheduled as soon as practicable.

“Riot Gear” is generally defined as “special clothes and equipment that the police use when they dealing with a large violent group of people”; here including but not limited to, body armor, tactical vests, riot helmets, gas masks, riot shields, tactical goggles, chest protectors, tactical hoods, riot suits, rappelling equipment, forced entry tools, night vision, thermal imaging, dogs, and assault weapons, all terms as generally understood, as well as similar equipment, but excluding traditionally carried protective vests and service weapons, and community service dogs. Such list may be modified by vote of the S/Bd, following a public hearing (as stated above).

EXPLANATION¹

As to the overall “Police Commissioner” role, including *well-publicized public hearings on “policy” issues*, see 1987’s “Police & Community Relations Report”² (adopted by a unanimous S/Bd), linked on www.brooklinepolice.com/147/Annual-Reports. Since 1988, S/Bds occasionally have -- more often have *not* -- embraced their role as “Police Commissioners.” Some examples:

- The 1987 Report’s Complaint process was, in 2009, thoroughly reviewed by a large Citizen Complaint Review Committee, (“CCRC”), with a public hearing, then another one by the S/Bd. Then, however, TM passed a PAX resolution supporting CCRC’s dissenting/minority stance.³ Nonetheless, the S/Bd ignored that, rubber-stamping CCRC’s majority’s report.⁴

¹ For the above definition, see <https://dictionary.cambridge.org/us/dictionary/english/riot-gear>.

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³both, again, by MR.

⁴ Pax’s 2001 by-law requires SBds to annually summarize for all *Resolutions* the actions taken, in *Annual Reports*. 2009’s A/R at best exaggerated and at worst mis-stated the SBd (*non-*)action -- again, BTWay,

- The S/Bd resisted Pax’s 2014 WA making official the decades-long title, “Police Commissioner,” 1st (unanimously/successfully) recommending referral to CTOS, then after CTOS unanimously endorsed it, voting 4-0-1 (the 1, the Chair saying, she “d[id] not agree with this Article”) to amend/dilute it -- but overwhelmingly rejected by TM, adopting Pax’s version;
- In 2013, revisions were made to all the BPD *Policies-Procedures*, including the 2009 Disciplinary process -- but with minimal, if any, public input.
- More recently, and basically chaotically, in 2017 another review of the Disciplinary process was done by Bobbie Knable and Kelly Race. After now three years, with two poorly noticed and then aborted public hearings, those proposed changes remain confused and in limbo.
- Last November, for TM WA 24 giving the Diversity Commission complaint investigation power, CTOS, Advisory Committee, and PAX all urged a broad study of *all* complaint procedures. The SBd, however, urged a narrow study -- by the Commission, which had already professed their lack of expertise. While the SBd motion failed, it helped prevent (by two votes) a sorely-needed *broader* study; and even the Commission now reiterates, it’s a mess.⁵
- As per PAX’s May Newsletter, both Chiefs O’Leary and Lipson have, in answering ATM budget questions, endorsed *body and cruiser cameras*; but we have none. While there are financial, union, and rules (e.g. privacy) issues, they’ve been widely resolved, e.g. Boston. See -- now ~ four years outdated -- www.bjs.gov/content/pub/pdf/bwclea16.pdf, DoJ’s *Body-Worn Cameras in Law Enforcement Agencies, 2016* (47% of US’s 15,328 law enforcement agencies had body cameras, 69% dashboard cameras, 38% personal audio recorders; “The main reasons (about 80% each) were to improve officer safety, increase evidence quality, reduce complaints, and reduce agency liability.”)
- The FY-21 *Financial Plan* for BPD is shockingly silent on some crucial “OBJECTIVES” for “Patrol,” e.g., no mention of cameras -- or, by the way *any* issues for improving BPD’s (yes, existing, but always improve-able) efforts to keep reducing unconscious, insidious “racial profiling,” to improve 2017’s sanctuary policy, or generally to improve BPD’s crucial -- and often negatively exaggerated⁶ -- “image.” In fact, even “Community Relations” Objectives have some good, specific *trees*, but neither the foregoing needs nor any *forest*.
- Our recent “riot gear” incident highlights this entire issue, apparent miscommunication between our Chief and the Norfolk Sheriff -- also seeming *non*-communication with

after minimal (if any) further debate or public input -- on *all five* of the resolution’s proposals, saying, “[7/28/09] the [SBd] and Chief adopted a revised disciplinary procedure which *included many of the recommendations urged in the resolution.*”

⁵ For the current chaos, see the Civil Service Commission’s recent *Hall v. Town of Brookline*, # D-19-209.

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the S/Bd. This amendment would check/balance not just that, but the overall, bigger SBd role issue.

- We've been urged to refer this to the Military-Surveillance Committee. Respectfully, its (SBd-appointed!!) majority doesn't reflect the values of TM or the community. Their attempt to dilute TM's 2019 proposed ban on face-surveillance-recognition was rejected 170-13, then petitioner Amy Hummel's ban passed 178-9. Those were also "no [MSC] confidence" votes.

We endorse a TASK FORCE with diversity and expertise for many Police/complaint issues -- some crucial, *e.g.*, *cameras (above)*; *hiring and promotion diversity*; *Use of Force (e.g., for mere "noncompliance," a duty to report misconduct, etc.)*; *criteria for the most pretext-prone traffic stops and for less serious arrests*. But we're very doubtful about some "popular" ideas, like:

(a) "*defund*" Police? Yes, look for (scalpel) budget changes. But our (yes) excellent BPD, needs to (yes, armed) investigate domestic disputes and mental health events, make traffic stops, etc. -- all sometimes turning violent. BPD is too small for big sledgehammer cuts.

(b) "*Civilian Review Board*"? As discussed in 1987's Report, and again 2009's CCRC, our "*de novo*" appeal to SBd hearings -- *e.g.* subpoena power and both rule-making and disciplinary power -- while needing (*supra*) its biennial improvements, along with *all* Town complaint procedures -- is still far better than most, maybe all, CRB's.⁷ Then, for under 10 complaints a year, there's budget issue--

⁷ See Terrill, *Citizen Complaints Against Police* (2015)[www.researchgate.net/publication/283784920].

ARTICLE 8

**MOTION OFFERED BY BONNIE BASTIEN, TMM5 &
MIRIAM ASCHKENASY, TMM 13**

MOVED: That the following condition of appropriation be added to the Fiscal Year 2021 Town Budget:

X) LIMITATION ON EXPENDITURES. No Town funds or funds whose expenditure is controlled by the Town shall be expended after July 1, 2020, for the purpose of compensating Town employees, engaging outside counsel, or any other purpose associated with appealing the MA Superior Court decision of August 2, 2019 in the case of Town of Brookline v. Gerald Alston and the Civil Service Commission, except that such funds may be employed for the sole purpose of terminating litigation and settling the case.

ARTICLE 8

**MOTION OFFERED BY DEBORAH BROWN, TMM10 &
BONNIE BASTIEN, TMM5**

MOVED: That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by \$2,129,000 and the following changes be made to other FY2021 appropriations:

- The Information Technology Department appropriation is increased by \$630,000 in order to negotiate contracts with internet providers in support of distance learning for BHA residents.
- The schools appropriations is increased by \$1,499,000 with Town Meeting recommending that the School Committee use funds to fund these essential areas:
 - Laptops: 500 @ \$300 each = \$150,000
 - Social Workers:\$71,000 for 15 FTE = \$1,065,000
 - Enrichment Challenged Specialist: \$71,000 for 4 = \$284,000
 - Total: \$1,499,000

Explanation: The death of George Floyd and COVID-19 introduced to Brookline a new generation of civic awareness, recent Brookline High graduates. Some Town Meeting members met with them and these expressed real concerns about the inequitable cuts between the various departments and how the town apparently sets priorities. Trying to explain that things are never as simple as they seem was a starting point. A discussion about the “FY-2021 Financial Plan” and how Town Meeting functions only made them clear about the need for a more representative and equitable budget for all of Brookline’s residents.

Policing is a central part of any budget discussion in Brookline, because it consumes such a large portion of the budget on the Town side. Also consider the deep cuts presently having been made on the on the schools side. In addition to cuts, some investments need to be made, and this budget amendment represents such a reimagining.

The proposed budget amendment brings the Brookline Police Department funding to a 17% cut from the original FY21 budget request of \$12,650,000, or slightly above the cuts proposed to other Town departments, requested by the Town Administrator before June 1, 2020. It provides critical funding to schools for some specific areas. While the School Committee has not requested these resources, they are well aware of the ask and support it, as does BRJE. This is about protecting our most vulnerable population, our youth. These cuts to the police may create some inconveniences, but not as much as the cuts to the schools or comparable cuts would to other departments.

ARTICLE 8

**MOTION OFFERED BY C. SCOTT ANANIAN, TMM10 &
RAUL FERNANDEZ, SELECT BOARD MEMBER**

That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by \$1,265,000 and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by \$110,715, with Town Meeting recommending that the School Committee use these funds to fund the BEEP shortfall;
- The Personnel and Benefits appropriation for the Office of Diversity, Inclusion, and Community Relations be increased by \$66,440 to fund the hire of a Community Engagement Specialist;
- The Services appropriation for the Office of Diversity, Inclusion, and Community Relations be increased by \$30,000 to support the implementation of the Community Engagement Plan;
- The Supplies appropriation for the Office of Diversity, Inclusion, and Community Relations be increased by \$11,500 to support the implementation of the Community Engagement Plan, including Office Supplies, Special Programs Supplies, and Meals and Receptions;
- The Personnel and Benefits appropriation for the Health Department be increased by \$78,587 to fund a Domestic Violence Advocate;
- The Personnel and Benefits appropriation for the Economic Development Division of the Planning and Community Development Department be increased by \$68,244 to restore funding for the Economic Development Long Term Planner position;
- The appropriation for the Affordable Housing Trust Fund be increased by \$501,756 with the funds earmarked for improvements to the High Street Veterans property of the Brookline Housing Authority, including patching and painting of front and rear hallways, and new front entranceway floors and stair treads;
- The appropriation for the Affordable Housing Trust Fund be further increased by \$368,000 with the funds earmarked for improvements to the Egmont Street Veterans property of the Brookline Housing Authority, including patching and painting for front and rear hallways and new front entranceway floors and stair treads; and
- An appropriation to the Racial Equity Advancement Fund be made of \$29,758.

Explanation: This brings the Brookline Police Department funding to a 10% cut from the original FY21 budget request, in line with the cuts proposed to other Town departments,

and to the best of my ability matches the allocations proposed by the Chief of Police in the 10% cut requested by the Town Administrator, as described in his budget letter of June 1, 2020. It restores funding to schools, funds the Community Engagement Plan passed by Town Meeting in WA 30 last Fall, adds Domestic Violence prevention to the Health department, repairs Brookline Housing Authority buildings, and makes the first contribution to the Racial Equity Fund established by Town Meeting in WA 29 last Fall.

It is impossible to create positive change without first knowing where we are, and I'd like to recognize Officer Casey Hatchett, TMM-12, and the others involved with securing federal JAG grant funding to track and publish statistics on how race affects various categories of policing. The results of this work are in the Annual Reports of the Police Department. Unfortunately, the published results show that 52% of the non-residents stopped and questioned by our Police Department ("Field Interrogations") were Black -- but our neighbor Boston is only 23% Black and Brookline is only 3.4% Black. Worse, as a Black resident of Brookline, you are 5.5 times more likely to be arrested by our Police Department than you would be as a White resident of Brookline. We need to address this, and not by arresting more White people -- we need to reduce the number of arrests. Ultimately, the strongest predictor of the number of arrests by a Police Department is the size of the department.

The Brookline Police Department is the largest single Department in our town, accounting by itself for 22% of the total FTE salaries paid by our Town. The Police Department budget is 1.8 times the Administration and Finance budget, 4.4 times the Library Budget, 11.2 times the Health and Human Services budget, and 67 times the Office of Diversity, Inclusion, and Community Relations. Yet it was trimmed by only 2.8% in the Town Administrator's budget, while Schools were cut 3.5%, Libraries were cut 9.5%, and Veterans and the Council on Aging were cut 10%.

Ultimately a budget expresses our priorities as a Town, and this amendment attempts to bring the Police Department more in line with the cuts made elsewhere in Town. Tweaking the budget doesn't solve discrimination or the systemic issues with policing. The Select Board Task force will consider more fundamental reforms. These necessary steps include removing discretionary traffic enforcement from the Department, revisiting the Civil Service requirement on our officers, and aggressively renegotiating the police union contract this summer. But the first step is to act as Town Meeting to make a statement that reform is needed and policing ought to fairly share in the cuts made Town-wide.

Description of reallocated funds

The Brookline Early Education Program (BEEP) offers 22 classes throughout the town and serves children with a range of developmental levels and from diverse cultural backgrounds. Due to COVID-19, the BEEP budget has a predicted shortfall for FY21 of \$110,715 to reopen at 50% capacity, as presented at the School Committee meeting on June 11, 2020. BEEP will provide 25 low-income spots.

Warrant Article 30, passed by the November 19, 2019 Special Town meeting, established a Community Engagement Plan. An equitable, inclusive community engagement approach to public decisions ensures that everyone, especially those who have been historically left out of these conversations (e.g., low-income people, people of color, recent immigrants, speakers of English as a second language), has a say in the decisions that affect their lives. The Community Engagement Plan was not funded by the Town Administrator or Advisory Committee Budgets.

This article implements the Community Engagement Plan, by hiring a Community Engagement Specialist and providing them with the operations funds needed. The cost (benefits included) of this FTE is that provided by the Brookline Fiscal Advisory Committee in Appendix L (“Fiscal Impact of 2019 Town Meeting Actions”) of their February 5, 2020 Final Report, prorated for 10 months (assuming 2 months to hire the new position). The operations costs to fully implement the Community Engagement Plan have been provided by Lloyd Gellineau, Chief Diversity Officer of the Town. It was suggested that, in addition, each of the 17 other Town departments would have \$2,000-\$5,000 allocated to support Community Engagement efforts within that department; we regret we were unable to fund this but hope that each department head may find discretionary funds to support their own part of the Community Engagement Plan.

The Domestic Violence Advocate FTE is intended to increase Town support for victims of domestic abuse. Salary (\$66,822) is equal to that of the civilian Domestic Violence Advocate employed by the Police Department in the FY21 budget, with an additional \$11,765 allocated for benefits as advised by Melissa Goff, Deputy Town Administrator. The new position is in the Health and Human Services department.

The Economic Development Long-Term Planner position is based on an annualized salary of \$73,540, prorated for 10 months assuming a September 1 start date, with an additional \$11,765 allocated for benefits as advised by Melissa Goff, Deputy Town Administrator. This budget was provided by Paul Saner, co-chair of the Economic Development Advisory Board. The Town has outdated zoning, and urgently needs to review and update many of its zoning requirements, especially (but not exclusively) in the transit/commercial corridors where changes could encourage significant mixed-use development. New development along Beacon Street, for example, could bring increased housing opportunities at all levels, including subsidized and middle income housing, along with more robust businesses, all of which will add to our tax base. The Town (through the Planning Board and Preservation Commission) already started a planning process for this which has stalled, in part due to lack of sufficient staff support in the Planning Department. In this crisis, failing to appropriate modest funds to provide sufficient staff to help plan our future and secure long-term affordable housing is shortsighted.

High Street Veterans is a Brookline Housing Authority family development consisting of 177 units of one, two and three-bedrooms in three story, garden-style apartment buildings with mostly six units per entrance. There are also nine wheelchair-accessible, ranch-type units. The cost of repairs and renovations includes \$57,000 for painting and patching front

hallways, \$52,000 for painting and patching rear hallways, and \$461,000 for new front entranceway floors and stair treads, for a total of \$570,000. These projects were selected by Michael Jacobs, chair of the Brookline Housing Authority, and the budgets were supplied by him. Only \$501,756 has been appropriated for this project, and we urge the Housing Advisory Board to make up the difference from the Affordable Housing Fund.

Egmont Street Veterans is a Brookline Housing Authority family development consisting of 114 units of one, two and three-bedrooms in three story, garden-style apartment buildings with mostly six units per entrance. There are also six wheelchair-accessible, ranch-type units. The apartments are set on St. Paul, Egmont and Pleasant Streets. The cost of repairs and renovations includes \$36,000 for painting and patching front hallways, \$33,000 for painting and patching rear hallways, and \$299,000 for new front entranceway floors and stair treads, for a total of \$368,000. These projects were selected by Michael Jacobs, chair of the Brookline Housing Authority, and the budgets were supplied by him. In addition, the units in both developments could use kitchen upgrades at \$10,000/unit, which unfortunately we could not fund in this amendment.

The Racial Equity Advancement Fund was requested by Warrant Article 29 of the November 19, 2019 Special Town meeting. The fund is managed by the Office of Diversity, Inclusion, and Community Relations in collaboration with the Commission for Diversity, Inclusion, and Community Relations, which jointly develop funding guidelines and recommend specific projects for approval by the Select Board. The Fund has been created by the Select Board but has not yet been funded, and neither the Town Administrator nor Advisory Committee budgets appropriated any funds.

ARTICLE 8

**AMENDED MOTION TO REDUCE AND REDISTRIBUTE THE POLICE
BUDGET, OFFERED BY DEBORAH BROWN, TMM10 &
BONNIE BASTIEN, TMM5**

MOVED: That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by \$2,115,951 and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by \$1,269,425, with Town Meeting recommending that the School Committee use these funds as follows:
 - BEEP shortfall: \$110,715,
 - Social workers: 10 FTEs at \$82,765 each, including benefits (total \$827,650), and
 - Enrichment and Challenge Support specialists: 4 FTEs at \$82,765 each, including benefits (total \$331,060);
- The appropriation for the Affordable Housing Trust Fund be increased by \$642,000 with the funds earmarked for the following projects:
 - \$114,000 to negotiate contracts with Internet providers in support of distance learning for Brookline Housing Authority residents,
 - \$350,000 for repairs to kitchens in the High Street Veterans and/or the Egmont Street Veterans properties of the Brookline Housing Authority,
 - \$109,000 for improvements to the High Street Veterans property of the Brookline Housing Authority, and
 - \$69,000 for improvements to the Egmont Street Veterans property of the Brookline Housing Authority;
- An appropriation to the Racial Equity Advancement Fund be made of \$16,195;
- The appropriation for the Office of Diversity, Inclusion, and Community Relations be increased by \$41,500 to support the implementation of the Community Engagement Plan, with \$30,000 for Services and \$11,500 for Supplies;
- The Personnel and Benefits appropriation for the Health Department be increased by \$78,587 to fund a Domestic Violence Advocate; and
- The Personnel and Benefits appropriation for the Economic Development Division of the Planning and Community Development Department be increased by \$68,244 to restore funding for the Economic Development Long Term Planner position.

Marked up against the Schools and Housing Amendment. **Boldface** for additions, *italics* for deletions.

MOVED by Deborah Brown, TMM1; seconded by Bonnie Bastien, TMM5:

That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by ~~\$1,198,560~~ **\$2,115,951** and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by ~~\$938,365~~ **\$1,269,425**, with Town Meeting recommending that the School Committee use these funds as follows:
 - BEEP shortfall: \$110,715,
 - Social workers: 10 FTEs at \$82,765 each, including benefits (total \$827,650), and
 - **Enrichment and Challenge Support specialists: 4 FTEs at \$82,765 each, including benefits (total \$331,060);**
- The appropriation for the Affordable Housing Trust Fund be increased by ~~\$244,000~~ **\$642,000** with the funds earmarked for the following projects:
 - \$114,000 to negotiate contracts with Internet providers in support of distance learning for Brookline Housing Authority residents,
 - ~~\$130,000~~ **\$350,000** for repairs to kitchens in the High Street Veterans and/or the Egmont Street Veterans properties of the Brookline Housing Authority,
 - **\$109,000 for improvements to the High Street Veterans property of the Brookline Housing Authority, and**
 - **\$69,000 for improvements to the Egmont Street Veterans property of the Brookline Housing Authority;**
- An appropriation to the Racial Equity Advancement Fund be made of \$16,195;
- **The appropriation for the Office of Diversity, Inclusion, and Community Relations be increased by \$41,500 to support the implementation of the Community Engagement Plan, with \$30,000 for Services and \$11,500 for Supplies;**
- **The Personnel and Benefits appropriation for the Health Department be increased by \$78,587 to fund a Domestic Violence Advocate; and**
- **The Personnel and Benefits appropriation for the Economic Development Division of the Planning and Community Development Department be increased by \$68,244 to restore funding for the Economic Development Long Term Planner position.**

ARTICLE 8

**AMENDED MOTION TO REDUCE AND REDISTRIBUTE
THE POLICE BUDGET, OFFERED BY C. SCOTT ANANIAN, TMM10;
AND DONELLE S. O’NEAL SR., TMM4/AC:**

MOVED: That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by \$1,198,560 and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by \$938,365, with Town Meeting recommending that the School Committee use these funds as follows:
 - BEEP shortfall: \$110,715, and
 - Social workers: 10 FTEs at \$82,765 each, including benefits (total \$827,650),
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 - \$130,000 for repairs to kitchens in the High Street Veterans and/or the Egmont Street Veteran’s properties of the Brookline Housing Authority; and
- An appropriation to the Racial Equity Advancement Fund be made of \$16,195.

ARTICLE 8

**AMENDED MOTION OFFERED BY NEIL GORDON, TMM-1
& MARTIN ROSENTHAL, TMM-9,**

MOVED: to amend the Advisory Committee’s main motion under Article 8 by adding the following additional Condition of Appropriations, appropriately

numbered: Except for a seeming emergency, no Town or outside grant funds shall be expended, including to pay staff, for purchase or acquisition of “Riot Gear,” including from a non-Brookline agency, except by vote of the Select Board (“S/Bd”) as Police Commissioners, after a public hearing with no less than 14 days prior public notice -- with early and broad dissemination of the proposed vote, including related documents. If either (A) the Chief foresees an emergency meriting immediate need of acquiring a new specific riot gear item, if and to the extent practicable she/he/they shall consult with the S/Bd Chair as to immediately doing so, or (B) previously-acquired riot gear item is actually and visibly (to 1 or more civilians) used in Brookline (including by a coordinated non-Brookline agency); then the S/Bd shall soon thereafter get a report, and docket a vote deciding whether to schedule a later hearing, as stated above (including as to possible modification of the below list, as stated below).

“Riot Gear” is generally defined as “special clothes and equipment that the police use when they dealing with a large violent group of people”; here including but not limited to, body armor, tactical vests, riot helmets, gas masks, riot shields, tactical goggles, chest protectors, tactical hoods, riot suits, rappelling equipment, forced entry tools, night vision, thermal imaging, dogs, and assault weapons, all terms as generally understood, as well as similar equipment, but excluding traditionally carried protective vests and service weapons, and community service dogs. Such list may be modified by vote of the S/Bd, following a public hearing (as stated above).

EXPLANATION¹

As to the overall “Police Commissioner” role, including *well-publicized public hearings on “policy” issues*, see 1987’s “Police & Community Relations Report”² (adopted by a unanimous S/Bd), linked on www.brooklinepolice.com/147/Annual-Reports. Since 1988, S/Bds occasionally have -- more often have *not* -- embraced their role as “Police Commissioners.” Some examples:

- The 1987 Report’s Complaint process was, in 2009, thoroughly reviewed by a large Citizen Complaint Review Committee, (“CCRC”), with a public hearing, then another one by the S/Bd. Then, however, TM passed a PAX resolution supporting CCRC’s dissenting/minority stance.³ Nonetheless, the S/Bd ignored that, rubber-

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stamping CCRC's majority's report.⁴

- The S/Bd resisted Pax's 2014 WA making official the decades-long title, "Police Commissioner," 1st (unanimously/successfully) recommending referral to CTOS, then after CTOS unanimously endorsed it, voting 4-0-1 (the 1, the Chair saying, she "d[id] not agree with this Article") to amend/dilute it -- but overwhelmingly rejected by TM, adopting Pax's version;
- In 2013, revisions were made to all the BPD *Policies-Procedures*, including the 2009 Disciplinary process -- but with minimal, if any, public input.
- More recently, and basically chaotically, in 2017 another review of the Disciplinary process was done by Bobbie Knable and Kelly Race. After now three years, with two poorly noticed and then aborted public hearings, those proposed changes remain confused and in limbo.
- Last November, for TM WA 24 giving the Diversity Commission complaint investigation power, CTOS, Advisory Committee, and PAX all urged a broad study of *all* complaint procedures. The SBd, however, urged a narrow study -- by the Commission, which had already professed their lack of expertise. While the SBd motion failed, it helped prevent (by two votes) a sorely-needed *broader* study; and even the Commission now reiterates, it's a mess.⁵
- As per PAX's May Newsletter, both Chiefs O'Leary and Lipson have, in answering ATM budget questions, endorsed *body and cruiser cameras*; but we have none. While there are financial, union, and rules (e.g. privacy) issues, they've been widely resolved, e.g. Boston. See -- now ~ four years outdated -- www.bjs.gov/content/pub/pdf/bwclea16.pdf, DoJ's *Body-Worn Cameras in Law Enforcement Agencies, 2016* (47% of US's 15,328 law enforcement agencies had body cameras, 69% dashboard cameras, 38% personal audio recorders; "The main reasons (about 80% each) were to improve officer safety, increase evidence quality, reduce complaints, and reduce agency liability.")
- The FY-21 *Financial Plan* for BPD is shockingly silent on some crucial "OBJECTIVES" for "Patrol," e.g., no mention of cameras -- or, by the way *any* issues for improving BPD's (yes, existing, but always improve-able) efforts to keep reducing unconscious, insidious "racial profiling," to improve 2017's sanctuary policy, or generally to improve BPD's crucial -- and often negatively exaggerated⁶ -- "image." In fact, even "Community Relations" Objectives have some good, specific

⁴ Pax's 2001 by-law requires SBds to annually summarize for all *Resolutions* the actions taken, in *Annual Reports*. 2009's A/R at best exaggerated and at worst mis-stated the SBd (*non-*)action -- again, BTWay, after minimal (if any) further debate or public input -- on *all five* of the resolution's proposals, saying, "[7/28/09] the [SBd] and Chief adopted a revised disciplinary procedure which *included many of the recommendations urged in the resolution.*"

⁵ For the current chaos, see the Civil Service Commission's recent *Hall v. Town of Brookline*, # D-19-209.

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trees, but neither the foregoing needs nor any *forest*.

- Our recent “riot gear” incident highlights this entire issue, apparent miscommunication between our Chief and the Norfolk Sheriff -- also seeming *non-communication* with the S/Bd. This amendment would check/balance not just that, but the overall, bigger SBd role issue.
- We’ve been urged to refer this to the Military-Surveillance Committee. Respectfully, its (SBd-appointed!!) majority doesn’t reflect the values of TM or the community. Their attempt to dilute TM’s 2019 proposed ban on face-surveillance-recognition was rejected *170-13*, then petitioner Amy Hummel’s ban passed *178-9*. Those were also “no [MSC] confidence” votes.

We endorse a TASK FORCE with diversity and expertise for many Police/complaint issues -- some crucial, *e.g., cameras (above); hiring and promotion diversity; Use of Force (e.g., for mere “noncompliance,” a duty to report misconduct, etc.); criteria for the most pretext-prone traffic stops and for less serious arrests*. But we’re very doubtful about some “popular” ideas, like:

(a) “*defund*” Police? Yes, look for (scalpel) budget changes. But our (yes) excellent BPD, needs to (yes, armed) investigate domestic disputes and mental health events, make traffic stops, etc. -- all sometimes turning violent. BPD is too small for big sledgehammer cuts.

(b) “*Civilian Review Board*”? As discussed in 1987’s Report, and again 2009’s CCRC, our “*de novo*” appeal to SBd hearings -- *e.g.* subpoena power and both rule-making and disciplinary power -- while needing (*supra*) its biennial improvements, along with *all* Town complaint procedures -- is still far better than most, maybe all, CRB’s.⁷ Then, for under 10 complaints a year, there’s budget issue-- making a new office an unnecessary pipe-dream!

⁷ See Terrill, *Citizen Complaints Against Police* (2015)[www.researchgate.net/publication/283784920].

ARTICLE 8

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board voted FAVORABLE ACTION on the following motion related to the Rosenthal/Gordon Amendment:

VOTED: To refer the Rosenthal/Gordon motion to the Select Board with the intent of taking up policy discussions with the Chief on the subject matter of this article, including mutual aid agreements.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

The following is the motion made by the Advisory Committee on the Rosenthal/Gordon Amendment:

A **MOTION** was made and seconded for referral to the Select Board Task Force. By a roll call VOTE of 25-3-1, the motion for referral carries.

ARTICLE 8

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board reconsidered their motion under Article 8 to evaluate a number of motions related to funding of the Police Department. Included within each Police “defunding” proposal is a corresponding decision where to reallocate these funds. The Board understands and agrees with the outrage over police incidents in Minneapolis, Atlanta, and elsewhere. In addition, they unanimously support efforts to make fundamental reforms in the system of policing in the United States. While the Board appreciates the passion for which the police defunding proposals are based upon, they are generally concerned with the unintended consequences of impacting essential public safety services. The Board also wants to have a more thoughtful and thorough discussion of where the funding would be reallocated, and believe this should be deferred until the November Town Meeting. However, the Board feels strongly that a statement should be made at this time through a reduction in the Police Department’s budget and reallocation of funding to areas that will support the necessary dialogue on the future of policing. As a result, the Board voted unanimously to initiate a motion that would reduce the Police budget by \$116,440 and to reallocate these funds for, 1.) \$50,000 to support the work of a Task *Force on Reimagining Policing in Brookline*, and 2.) \$66,440 to establish a Community Engagement Specialist in the office of Diversity Inclusion and Community Relations. This proposal has been adopted by the Advisory Committee and will thus become incorporated in the main budget motion under Article 8.

The Select Board voted 4-1 to oppose more extensive defunding motions (2) offered by Town Meeting Members Brown/Bastein and Ananian/O’Neal.

ROLL CALL VOTE:

<u>No:</u>	<u>Aye:</u>
Greene	Fernandez
Heller	
Hamilton	
VanScoyoc	

After establishing their base vote the Board also considered the amendments offered by Rosenthal/Gordon, and Aschkenasy/Weaver. The Board’s position on these amendments is as follows:

Rosenthal/Gordon

Under Article 8, a motion has been introduced that would restrict the use of Town funds, including grant funding from other government sources, for “Riot Gear” without a public hearing (with 14-day notice period) and an affirmative vote of the Select Board. This article

raises many legal, practical and political issues. The Select Board is the Town’s executive authority. Explicit in the Town’s By-Laws is the legal role of the Select Board as “Police Commissioners”. The Board has consistently taken an active role in exercising this authority, including the approval of all Policies and General Orders of the Police Department. The Board fully intends to consider and act timely upon any recommendations of the current Surveillance Technology and Military-Type Equipment Study Committee or the upcoming Task Force on Policing relating to riot gear.

The Board does not consider a budget motion to be an effective way to address this matter and, as a result, voted unanimously to recommend referral of this motion to the Select Board. The Board also committed to include in their review of this matter the Police Department’s involvement in mutual aid relationships and commitments to other regional municipalities.

Aschkenasy/Weaver

Under Article 8, a motion has been introduced that would restrict the use of Town funds for the purpose of pursuing an appeal of a Superior Court decision on an employment termination case (Firefighter Gerald Alston). There are many legal, political and moral aspects to this matter, as everyone knows. The Select Board has received advice that legislative action by a town meeting cannot override a legal prerogative of the executive body. Under the General By-Laws of the Town, the Select Board are explicitly authorized to “institute, prosecute, defend, compromise and settle claims, actions, suits or other proceedings brought by, on behalf of, or against the town”.

But as previously mentioned, this motion raises many other issues than just legal ones, and the Select Board’s deliberations and vote reflect this fact. The Board voted to recommend No Action on this motion by a vote of 3 in favor, 1 opposed and 1 abstention.

ROLL CALL VOTE:

<u>Aye:</u>	<u>No:</u>	<u>Abstain:</u>
Greene	Fernandez	Hamilton
Heller		
VanScoyoc		

The Select Board voted unanimously FAVORABLE ACTION on a budget motion that was subsequently adopted by the Advisory Committee. The Board believes that the main motion for both bodies is in alignment as presented in the Advisory report below.

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

Background

In the aftermath of the death of George Floyd in Minneapolis, another in a long series of deaths of unarmed Black men – and women – at the hands of police officers, there has been a national demand for change in the way police officers treat African-Americans. Along with this call, there has been a wave of sentiment for “defunding” the police – that is, cutting police budgets by as much as 50%. Accompanying this is the suggestion that many of the services performed by police officers could be done by others.

Discussion

Over the last several years, Brookline police officers have received training in how to deal in a non-confrontational way with people who are mentally disturbed, and they have received anti-bias training. Chief Lipson characterized these changes as in policing as moving the mentality of police officers from being warriors to being guardians. His predecessor, Chief O’Leary, has said that officers have long been trained to assert control of a situation immediately, but they are being retrained to step back and assess how much control they need to assert.

Nonetheless, minorities in general and African-Americans in particular complain of regular harassment by police officers. The “crime” of “Driving While Black” is often cited as an example, and Brookline is no different than any other community.

But the police do not exist in a vacuum. When Brookline drivers call the police to report that a Black male is walking down the street, or when White drivers seeing a black man jogging lock their car doors, the police mirror those racist impulses. If we don’t like what we see in the mirror, blaming the mirror changes nothing.

Nor does defunding it.

The Select Board and the has voted – and the Advisory Committee has endorsed – the creation of a Task Force on Reimaging in Policing in Brookline. The vote includes \$50,000 for staff support, and also includes the funding of a Community Relations Specialist position in the Office of Diversity, Inclusion and Community Relations (“DICR”).

Three amendments have been proposed to the police budget; one has since been withdrawn.

The withdrawn amendment Ms. Gilman’s, which would have funded the Task Force, but it did not fund the Community Relations Specialist position in DICR.

Mr. Ananian and others moved to take \$1,265,000, representing more or less 10% of the variable costs of the Police Department, and reallocate the funds to other departments including the Schools. Deborah Brown and others have moved to take \$2.1 million and reallocate the funds to a different set of departmental budgets. Neither amendment specifies what services the Brookline Police Department should cease to provide.

It's important to note that that the Police Dept. budget has already been cut by \$655,973 from the February draft FY21 budget. The Ananian and Brown cuts would be on top of that.

The Police provide a wide range of services, from being first responders in medical emergencies to working with high school students in the DARE program, and of course they are responsible for enforcing traffic regulations and dealing with crime. There is nothing sacred in having the police provide this range of services. The concept of redirecting funds from the police budget to provide some of those services through other departments or agencies is not unreasonable.

But redirecting funds without setting up the capability to provide those services, such as responding to a domestic violence call -- is not just unreasonable – it could lead to a tragedy.

It's like running a vehicle in to a tree to stop it rather than using the brakes.

The rational way to proceed is to allow the Task Force, chaired by Select Board member Fernandez, to recommend what changes should be made in policing training and practices, and what services, if any should be transferred elsewhere. At that point, it will be possible to allocate funds to whoever should take over those services and hire and train staff.

That approach puts the brakes on the Brookline Police rather than running the department into a tree by instantly cutting off a significant part of its funding.

Recommendation

The Advisory Committee recommends no action on both the Ananian and Brown amendments because they run the risk of running the department into that tree.

We urge the Select Board to move quickly to develop its instructions for the Task Force and to appoint a diverse group of members who can meet over the summer, and direct them to provide an interim report at November Town Meeting.

Although Ms. Gilman's amendment has been withdrawn, the explanation she offers is worth repeating:

“Policy should be shaped by the public to reflect our highest and most inclusive values for the safety, security, health and quality of life for all of us. We need to do our best to be sure that any budget changes reflect our values, which in turn drive budgeting. But Town Meeting is being asked to make significant cuts without the opportunity to consider their impact; to study whether the services that are being cut should be delivered in a different manner; or to judge whether they are best performed by other departments. These cuts were sprung on us in the moments before Town Meeting without budgetary vetting and without the type of broad community engagement that issues of systemic racism and violence call out for. A better model is needed to approach these critically important matters. The Task Force proposed by Select Board member Raul Fernandez is the right model and skillful means for the deep work we need to do.”

The Advisory Committee voted 27-1-1 on the following motion:

VOTED: To approve the budget for fiscal year 2021 set forth in the attached Tables I and II, to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

1.) TRANSFERS AMONG APPROPRIATIONS: Transfers between the total departmental appropriations separately set forth in Tables 1 and 2 shall be permitted by vote of Town Meeting or as otherwise provided by Massachusetts General Laws Chapter 44, Section 33B(b). Within each separate departmental appropriation, expenditures shall be restricted to the expenditure object classifications set forth in the recommendation of the Advisory Committee, and voted by the Town Meeting, for each department, subject to the following exceptions:

- A) Expenditures within the appropriation for the School Department shall not be restricted.
- B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Select Board and Advisory Committee:
 - i) Transfers from the appropriation for the capital outlay object classification to any other object classification.
 - ii) Transfers to the appropriation for the personal services object classification from any other object classification.
 - iii) Any transfer which has the effect of increasing the number of positions or the compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.

- iv) Transfers within the Department of Public Works from the Parks Division to any other purpose.
 - v) Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.
 - vi) With respect to item # 23d that \$2M of appropriated funds not be transferred to the trust until 12/1/2020
- C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.
- D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Select Board, and upon the condition that written notice of each such approval shall be submitted promptly to the Advisory Committee and Town Comptroller.

2.) PROCUREMENT CONTRACTS AND LEASES: The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2021 budget, and to solicit and award contracts for terms of not more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Select Board.

3.) ALLOCATION OF SALARY ADJUSTMENTS: Appropriations for salary and wage adjustments (Item #20) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Select Board shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personnel Services Reserve (Item #19), which shall be used to fund costs incurred over the course of the fiscal year pursuant to employee contracts and/or established personnel policies. The Town Comptroller shall include an accounting of all transfers made from this reserve in the Annual Financial Report.

4.) STIPENDS / SALARIES OF ELECTED OFFICIALS: The stipends of members of the Select Board shall be at the rate of \$4,500 per year for the Chair and at the rate of \$3,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of \$114,585 effective July 1, 2020, plus any adjustment approved by vote of the Select Board. The Town Clerk shall pay all fees received by the Town Clerk by virtue of his office into the Town treasury for Town use.

5.) VACANT POSITIONS: No appropriation for salaries, wages, or other compensation shall be expended for any benefit-eligible position which has become vacant during the fiscal year unless the Select Board, at an official meeting, has determined that the filling of the vacancy is either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.

6.) GOLF ENTERPRISE FUND: The following sums, totaling \$1,881,691 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

Salaries	\$689,557
Purchase of Services	\$264,901
Supplies	\$340,485
Other	\$11,500
Utilities	\$103,414
Capital	\$95,800
Debt Service	\$137,038
Reserve	<u>\$25,000</u>
Total Appropriations	\$1,667,695
Indirect Costs	<u>\$213,996</u>
Total Costs	\$1,881,691

Total costs of \$1,881,691 to be funded from golf receipts with \$213,996 to be reimbursed to the General Fund for indirect costs.

7.) WATER AND SEWER ENTERPRISE FUND: The following sums, totaling \$29,239,144, shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	<u>Water</u>	<u>Sewer</u>	<u>Total</u>
Salaries	2,390,649	449,001	2,839,650
Purchase of Services	172,398	149,000	321,398
Supplies	108,220	16,000	124,220
Other	13,900	3,180	17,080
Utilities	91,561	0	91,561
Capital	200,300	226,269	426,569
Intergovernmental	7,522,794	13,750,203	21,272,997
Debt Service	436,709	1,279,212	1,715,921
Reserve	<u>0</u>	<u>0</u>	<u>0</u>
Total Appropriations	10,936,531	15,872,865	26,809,396
Indirect Costs	<u>1,914,874</u>	<u>514,873</u>	<u>2,429,747</u>
Total Costs	12,851,406	16,387,738	29,239,144

Total costs of \$29,239,144 to be funded from water and sewer receipts with \$2,429,747 to be reimbursed to the General Fund for indirect costs.

8.) REVOLVING FUNDS:

- a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed \$4,200,000.
- b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed \$225,000.
- c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed \$100,000.

- d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed \$30,000.
- e.) The Library Director is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Copier Program. Annual expenditures from the fund shall not exceed \$30,000.
- f.) The School Department is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the School bus Program. Annual expenditures from the fund shall not exceed \$75,000.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of \$5,460,368, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

10.) SNOW AND ICE BUDGET: The sum of \$584,810, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article 8.

11.) INTERFUND TRANSFERS: In order to fund the appropriations voted for the various departments itemized on Table 1, the Town Comptroller is authorized to make the following interfund transfers:

Cemetery Sales Special Revenue Fund [to the General Fund for the Department of Public Works]	\$ 100,000
Recreation Revolving Fund [to the General Fund for benefits reimbursement]	\$471,027

12.) BUDGETARY REPORTING: The Town Comptroller shall provide the Advisory Committee with a report on the budgetary condition of the Town as of September 30, December 31, March 31, and June 30, within 45 days of said dates. This financial report shall include a summary of the status of all annual and special appropriations voted in this article; a report on the status of all special appropriations voted in prior years which remain open at the reporting date; and a summary of the status of all revenues and inter-fund transfers which have been estimated to finance the appropriations voted under this article.

13.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 35 through 69, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #64 - 69, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

Appropriate sums of money for the following special purposes:

- 36.) Appropriate \$0, to be expended under the direction of the Building Commissioner with any necessary contracts over \$100,000 to be approved by the Select Board for repairs to garage floors. **NOT MOVED**
- 37.) Appropriate \$60,000, to be expended under the direction of the Building Commissioner for the rehabilitation of Town buildings.
- 38.) Appropriate \$450,000, to be expended under the direction of the Fire Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for replacement of the fire station alerting system.
- 39.) Appropriate \$900,000, to be expended under the direction of the Police Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.
- 40.) Appropriate \$81,500, to be expended under the direction of the Commissioner of Public Works, with the approval of the Select Board, for traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Select Board on a semi-annual basis, and to meet the appropriation transfer \$81,500 from the Parking Meter Fund
- 41.) Appropriate \$125,000, with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for bicycle access improvements.
- 42.) Appropriate \$216,000 with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for parking meter technology upgrades. To meet the appropriation transfer \$216,000 from the Parking Meter Fund.

- 43.) Appropriate \$3,149,916, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of streets. To meet the appropriation transfer \$859,916 from the Parking Meter Fund.
- 44.) Appropriate \$336,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of sidewalks.
- 45.) Appropriate \$300,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for storm water improvements. and to meet the appropriation transfer \$300,000 from the retained earnings of the Water and Sewer Enterprise Fund.
- 46.) Appropriate \$265,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water meter transmission unit (MTU) replacements, and to meet the appropriation transfer \$265,000 from the retained earnings of the Water and Sewer Enterprise Fund
- 47.) Appropriate \$260,000, to be expended under the direction of the Building Commissioner with any necessary contracts over \$100,000 to be approved by the Select Board for repairs to the elevator at the Netherland's Road facility and to meet the appropriation transfer \$260,000 from the retained earnings of the Water and Sewer Enterprise Fund.
- 48.) Appropriate \$0, to be expended under the direction of the Commissioner of Public Works, for the design of the renovation of Schick Playground. **NOT MOVED**
- 49.) Appropriate \$310,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the renovation of playground equipment, fields, and fencing.
- 50.) Appropriate \$165,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of Town and School grounds.
- 51.) Appropriate \$235,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board and the Tree Planting Committee, for the removal and replacement of trees.
- 52.) Appropriate \$0, to be expended under the direction of the Chief Procurement Officer for school furniture upgrades. **NOT MOVED**

- 53.) Appropriate \$100,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for HVAC equipment in Town and School facilities.
- 54.) Appropriate \$0, to be expended under the direction of the Building Commissioner for the removal of underground tanks at Town and School facilities. **NOT MOVED**
- 55.) Appropriate \$80,000, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.
- 56.) Appropriate \$200,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for elevator renovations in Town and School facilities.
- 57.) Appropriate \$190,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for energy conservation projects in Town and School facilities.
- 58.) Appropriate \$125,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades to energy management systems in Town and School facilities.
- 59.) Appropriate \$300,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for fire alarm upgrades in Town and School facilities.
- 60.) Appropriate \$160,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Board of Select Board and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.
- 61.) Appropriate \$1,644,831, to be expended under the direction of the School Superintendent, with any necessary contracts to be approved by the Select Board and School Committee, for the expansion of classroom capacity in various schools.
- 62.) Appropriate \$2,000,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow \$2,000,000 under General Laws, Chapter 44, Section 8(5), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept,

- receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
- 63.) Appropriate \$3,000,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for wastewater system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow \$3,000,000 under General Laws, Chapter 44, Section 7(9), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
- 64.) Appropriate \$2,200,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements at Larz Anderson Park and to meet the appropriation authorize the Treasurer, with the approval of the Select Board, to borrow \$2,200,000, under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
- 65.) Appropriate \$0 to be expended under the direction of the Commissioner of Public Works, for the renovation of Robinson Playground. **NOT MOVED**
- 66.) Appropriate \$3,100,000, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for roof repairs/replacements to Town and School facilities and to meet the appropriation, authorize the Treasurer with the approval of the Selectmen, to borrow \$3,100,000 under General Law, Chapter 44, Section 7 (3A), as amended, or pursuant to any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of

issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

14.) **FREE CASH:** Appropriate and transfer \$11,065,720 from free cash for the following purposes:

- a.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – \$2,521,677;
- b.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – \$50,529;
- c.) Stabilization Fund (MGL Chapter 40, Section 5B) - \$1,000,000
- d.) Reduce the tax rate (Special Appropriations) – \$6,766,965;
- e.) Housing Trust Fund – \$726,549;

XXX

FY2021 BUDGET - TABLE 1 JUNE, 2020

	FY18 ACTUAL	FY19 ACTUAL	FY20 BUDGET	FY21 BUDGET AC	\$\$ CHANGE FROM FY20	% CHANGE FROM FY20
REVENUES						
Property Taxes	211,374,488	224,490,569	238,487,743	254,898,615	16,410,872	6.9%
Local Receipts	36,277,400	35,725,309	31,120,219	27,051,609	(4,068,610)	-13.1%
State Aid	20,352,973	22,112,759	22,386,947	19,455,995	(2,930,952)	-13.1%
Free Cash	8,354,017	8,427,936	9,081,257	11,065,720	1,984,463	21.9%
Other Available Funds	3,050,446	4,872,678	3,349,771	4,390,037	1,040,267	31.1%
TOTAL REVENUE	279,409,325	295,629,251	304,425,937	316,861,976	12,436,039	4.1%
EXPENDITURES						
DEPARTMENTAL EXPENDITURES						
1 . Select Board	738,119	708,050	831,487	841,662	10,175	1.2%
2 . Human Resources	755,582	498,780	648,415	594,485	(53,930)	-8.3%
3 . Information Technology	1,922,893	2,077,848	2,054,746	2,080,259	25,513	1.2%
4 . Diversity, Inclusion, and Community Rel	228,918	301,017	281,088	327,515	46,427	16.5%
5 . Finance Department	3,372,305	3,280,214	3,447,845	3,286,233	(161,612)	-4.7%
<i>a. Comptroller</i>	588,341	650,453	705,540	686,819	(18,721)	-2.7%
<i>b. Purchasing</i>	661,607	724,872	744,019	697,235	(46,784)	-6.3%
<i>c. Assessing</i>	694,167	735,490	732,477	738,659	6,182	0.8%
<i>d. Treasurer</i>	1,428,190	1,169,399	1,265,809	1,163,520	(102,289)	-8.1%
6 . Legal Services	1,055,753	1,166,351	1,155,413	1,057,022	(98,391)	-8.5%
7 . Advisory Committee	21,427	23,805	28,520	28,520	0	0.0%
8 . Town Clerk	562,943	758,640	669,914	750,024	80,110	12.0%
9 . Planning and Community Development	1,006,669	1,184,050	1,235,485	1,123,926	(111,559)	-9.0%
<i>a. Planning & Administration</i>	665,737	795,520	788,247	764,962	(23,285)	-3.0%
<i>b. Housing</i>	83,864	79,632	102,096	97,683	(4,413)	-4.3%
<i>c. Preservation</i>					0	
<i>c. Economic Development</i>	257,068	308,897	345,141	261,281	(83,860)	-24.3%
10 . Police	16,151,311	18,578,613	18,159,039	17,386,626	(772,413)	-4.3%
11 . Fire	15,070,184	15,586,571	15,998,841	15,822,908	(175,933)	-1.1%
12 . Building	7,653,367	5,511,493	8,613,272	8,746,246	132,974	1.5%
(1) 13 . Public Works	16,336,101	16,069,996	16,015,170	16,008,198	(6,972)	0.0%
<i>a. Administration</i>	885,065	911,556	954,995	950,304	(4,691)	-0.5%
<i>b. Engineering/Transportation</i>	1,179,727	1,306,949	1,374,345	1,350,119	(24,226)	-1.8%
<i>c. Highway</i>	4,944,741	5,532,652	5,348,245	5,103,753	(244,492)	-4.6%
<i>d. Sanitation</i>	3,267,293	3,246,937	3,586,207	4,030,333	444,126	12.4%
<i>e. Parks and Open Space</i>	3,766,756	3,912,389	4,166,568	3,988,879	(177,689)	-4.3%
<i>f. Snow and Ice</i>	2,292,518	1,159,513	584,810	584,810	0	0.0%
14 . Library	4,147,017	4,249,242	4,317,382	3,960,760	(356,622)	-8.3%
15 . Health and Human Services	1,181,028	1,408,011	1,405,442	1,568,639	163,197	11.6%
16 . Veterans' Services	303,845	201,513	346,074	312,087	(33,987)	-9.8%
17 . Council on Aging	902,328	954,436	992,321	913,379	(78,942)	-8.0%
18 . Recreation	1,027,649	983,211	1,116,669	1,034,617	(82,052)	-7.3%
(2) 19 . Personnel Services Reserve	715,000	715,000	715,000	715,000	0	0.0%
(2) 20 . Collective Bargaining - Town	784,317	1,400,693	2,470,000	1,910,000	(560,000)	-22.7%
<i>Subtotal Town</i>	<i>72,437,441</i>	<i>73,541,840</i>	<i>77,317,123</i>	<i>78,468,106</i>	<i>1,150,983</i>	<i>1.5%</i>
21 . Schools	105,196,458	110,918,206	117,385,106	118,998,990	1,613,883	1.4%

		FY18 ACTUAL	FY19 ACTUAL	FY20 BUDGET	FY21 BUDGET AC	\$\$ CHANGE FROM FY20	% CHANGE FROM FY20
	22 . Vocational Education Assessments	21,753	13,878	92,895	92,895	0	-
	Subtotal Education	105,218,211	110,932,084	117,478,001	119,091,885	1,613,883	1.4%
	TOTAL DEPARTMENTAL EXPENDITURE	177,655,652	184,473,924	196,468,814	197,559,990	1,091,177	
	NON-DEPARTMENTAL EXPENDITURES						
(1)	23 . Employee Benefits	59,317,285	62,487,155	66,438,626	68,518,848	2,080,222	3.1%
(3)	a. Pensions	21,519,358	23,785,769	24,915,433	26,569,845	1,654,412	6.6%
	b. Group Health	29,055,009	29,632,981	31,650,811	32,701,792	1,050,981	3.3%
	c. Health Reimbursement Account (HRA)	0	0	0	0	0	
(3)	d. Retiree Group Health Trust Fund (CRAT)	4,480,080	4,570,465	4,781,980	4,181,979	(600,001)	-12.5%
	e. Employee Assistance Program (EAP)	22,825	0	0	0	0	
	f. Group Life	132,145	132,351	145,000	145,000	0	0.0%
	g. Disability Insurance	13,436	43,808	46,000	46,000	0	0.0%
(3)	h. Worker's Compensation	1,450,000	1,450,000	2,050,000	1,850,000	(200,000)	-9.8%
(3)	i. Public Safety IOD Medical Expenses	200,000	200,000	0	0	0	
(3)	j. Unemployment Compensation	200,000	200,000	200,000	200,000	0	0.0%
	k. Medical Disabilities	15,709	18,846	40,000	40,000	0	0.0%
	l. Medicare Coverage	2,228,723	2,452,935	2,609,403	2,784,233	174,830	6.7%
(2)	24 . Reserve Fund	1,939,266	1,785,722	2,689,494	4,620,855	1,931,361	71.8%
	25 . HCA Reserve Fund	0	0	0	701,485	701,485	-
	26 . Stabilization Fund	0	0	0	1,000,000	1,000,000	-
	27 . Affordable Housing	576,803	545,112	200,000	726,549	526,549	263.3%
	28 . Liability/Catastrophe Fund	203,644	456,762	389,700	49,729	(339,971)	-87.2%
	29 . General Insurance	334,959	416,563	507,952	703,507	195,555	38.5%
	30 . Audit/Professional Services	123,252	131,994	142,000	142,000	0	0.0%
(5)	31 . Contingency Fund	11,874	14,754	15,000	10,000	(5,000)	-33.3%
	32 . Out-of-State Travel	110	1,677	3,000	0	(3,000)	-100.0%
	33 . Printing of Warrants & Reports	44,567	54,633	55,000	45,000	(10,000)	-18.2%
	34 . MMA Dues	12,588	13,121	13,553	13,891	338	2.5%
	Subtotal General	3,247,063	3,420,338	4,015,699	8,013,016	3,997,317	99.5%
(1)	35 . Borrowing	12,577,453	15,631,273	18,828,262	25,204,625	6,376,363	33.9%
	a. Funded Debt - Principal	9,007,500	10,195,000	11,952,053	13,674,000	1,721,947	14.4%
	b. Funded Debt - Interest	3,566,569	4,977,927	6,716,209	11,237,370	4,521,161	67.3%
	c. Bond Anticipation Notes	0	456,250	100,000	233,256	133,256	133.3%
	d. Abatement Interest and Refunds	3,384	2,095	60,000	60,000	0	0.0%
	TOTAL NON-DEPARTMENTAL EXPENDITURE	75,141,801	81,538,766	89,282,587	101,736,489	12,453,903	13.9%
	TOTAL GENERAL APPROPRIATIONS	252,797,453	266,012,690	285,751,400	299,296,480	13,545,079	4.7%
	SPECIAL APPROPRIATIONS						
	36 . Repairs to Garage Floors (revenue financed)					No motion	
	37 . Town Building Rehab/Upgrade (revenue financed)				60,000		
	38 . Fire Station Alerting System Replacement (revenue financed)				450,000		
	39 . Police/Fire Radio Infrastructure (revenue financed)				900,000		
	40 . Traffic Calming / Safety Improvements (transfer from parking meter fund)				81,500		

	FY18 ACTUAL	FY19 ACTUAL	FY20 BUDGET	FY21 BUDGET AC	\$\$ CHANGE FROM FY20	% CHANGE FROM FY20
41 . Bicycle Access Improvements (revenue financed)				125,000		
42 . Parking Meters (transfer from Parking Meter Fund)				216,000		
43 . Street Rehab. (rev financed (\$1.79M) + Parking meter fund (\$859,916))				3,149,916		
44 . Sidewalk Repair/Reconstruction (revenue financed)				336,000		
45 . Stormwater Improvements (revenue financed Water and Sewer fund)				300,000		
46 . Water Meter MTU Replacement (revenue financed Water and Sewer fund)				265,000		
47 . Water Garage Elevator Renovation (revenue financed Water and Sewer fund)				260,000		
48 . Schick Playground (revenue financed)				0	No motion	
49 . Playground Equipment, Fields, Fencing (revenue financed)				310,000		
50 . Town/School Grounds Rehab (revenue financed)				165,000		
51 . Tree Removal and Replacement (revenue financed)				235,000		
52 . School Furniture Upgrades (revenue financed)				0	No motion	
53 . HVAC Equipment (revenue financed)				100,000		
54 . Underground Tank Removal (revenue financed)				0	No motion	
55 . Town/School ADA Renovations (revenue financed)				80,000		
56 . Town/School Elevator Renovation Program (revenue financed)				200,000		
57 . Town/School Energy Conservation Projects (revenue financed)				190,000		
58 . Town/School Energy Management Systems (revenue financed)				125,000		
59 . Public Building Fire Alarm upgrades (revenue financed)				300,000		
60 . Town/School Bldg Security / Life Safety Systems (revenue financed)				160,000		
61 . Classroom Capacity (revenue financed)				1,644,831		
62 . Water System Improvements (utility bond)				2,000,000		
63 . Wastewater System Improvements (utility bond)				3,000,000		
64 . Larz Anderson Park (bond)				2,200,000		
65 . Robinson Playground (bond)				0	No motion	
66 . Town/School Roof Repair/Repl. Program (bond)				3,100,000		
(4) TOTAL REVENUE-FINANCED SPECIAL	9,720,862	10,979,868	9,949,094	8,828,250	(1,120,844)	-11.3%
TOTAL APPROPRIATED EXPENDITUR	262,518,315	276,992,558	295,700,495	308,124,730	12,424,235	4.2%
NON-APPROPRIATED EXPENDITURES						
Cherry Sheet Offsets	86,983	88,500	89,070	86,027		
State & County Charges	6,492,524	6,672,137	6,826,231	6,796,134		
Overlay	1,722,221	1,762,675	1,785,140	1,830,085		
Deficits-Judgments-Tax Titles	25,000	25,000	25,000	25,000		
TOTAL NON-APPROPRIATED EXPEND	8,326,728	8,548,312	8,725,441	8,737,246	11,805	0.1%
TOTAL EXPENDITURES	270,845,043	285,540,869	304,425,936	316,861,975	12,436,040	4.1%
SURPLUS/(DEFICIT)	8,564,281	10,088,382	0	0	0	

(1) Breakdown provided for informational purposes.

(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.

(3) Funds are transferred to trust funds for expenditure.

(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing.

(5) See Supplement 7 AC motion page 10.

FY21 BUDGET - TABLE 2 JUNE 2020

Department/Board/Commission	Personnel Services/ Benefits	Purchase of Services	Supplies	Other Charges/ Expenses	Utilities	Capital Outlay	Inter-Govt'al	Debt Service	Agency Total
Board of Selectmen (Town Administrator)	771,679	56,880	3,048	7,900		2,155			841,662
Human Resources Department (Human Resources Director)	312,086	239,359	14,900	26,500		1,640			594,485
Information Technology Department (Chief Information Officer)	1,205,986	580,773	10,350	15,050		268,100			2,080,259
Diversity, Inclusion, and Community Relations (Director)	300,640	20,000	3,000	3,000		875			327,515
Finance Department (Director of Finance)	2,388,055	813,459	46,960	28,707	1,422	7,630			3,286,233
Legal Services (Town Counsel)	788,138	183,269	2,500	81,500		1,615			1,057,022
Advisory Committee (Chair, Advisory Committee)	24,380		3,275	570		295			28,520
Town Clerk (Town Clerk)	618,072	110,172	20,250	500		1,030			750,024
Planning and Community Department (Plan. & Com. Dev. Dir.)	1,015,630	91,034	9,712	4,550		3,000			1,123,926
Police Department (Police Chief)	15,981,767	516,731	147,857	45,300	298,802	396,169			17,386,626
Fire Department (Fire Chief)	15,235,941	151,426	126,952	27,100	212,883	68,606			15,822,908
Public Buildings Department (Building Commissioner)	2,731,448	3,199,159	24,575	5,248	2,729,946	55,870			8,746,246
Public Works Department (Commissioner of Public Works)	8,529,486	4,707,159	983,420	45,500	1,054,902	687,730			16,008,197
Public Library Department (Library Board of Trustees)	2,828,566	236,861	583,525	4,700	263,984	43,124			3,960,760
Health & Human Services Department (Health & Human Svcs Dir)	1,253,699	221,514	35,100	4,120	49,421	4,785			1,568,639
Veterans' Services (Veterans' Services Director)	150,700	2,388	1,150	157,339		510			312,087
Council on Aging (Council on Aging Director)	769,123	48,418	18,846	4,250	67,042	5,700			913,379
Recreation Department (Recreation Director)	739,336	23,037	86,480	12,400	170,364	3,000			1,034,617
School Department (School Committee)									118,998,990
Total Departmental Budgets	55,644,732	11,201,639	2,121,900	474,234	4,848,766	1,551,834			194,842,095
DEBT SERVICE									
Debt Service (Director of Finance)								25,204,625	25,204,625
Total Debt Service								25,204,625	25,204,625
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	26,569,845								26,569,845
Group Health Insurance (Human Resources Director)	32,701,792								32,701,792
Retiree Group Health Insurance - OPEB's (Director of Finance)	4,181,979								4,181,979
Group Life Insurance (Human Resources Director)	145,000								145,000
Disability Insurance	46,000								46,000
Workers' Compensation (Human Resources Director)	1,850,000								1,850,000
Unemployment Insurance (Human Resources Director)	200,000								200,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	2,784,233								2,784,233
Total Employee Benefits	68,518,848								68,518,848
GENERAL / UNCLASSIFIED									
Vocational Education Assessments									92,895
Reserve Fund (*) (Chair, Advisory Committee)				4,620,855					4,620,855
HCA Reserve (Town Administrator)				701,485					701,485
Stabilization Fund (Director of Finance)				1,000,000					1,000,000
Liability/Catastrophe Fund (Director of Finance)				49,729					49,729
Housing Trust Fund (Planning & Community Development Dir.)				726,549					726,549
General Insurance (Town Administrator)		703,507							703,507
Audit/Professional Services (Director of Finance)		142,000							142,000
Contingency (Town Administrator)				10,000					10,000
Out of State Travel (Town Administrator)									
Printing of Warrants (Town Administrator)	15,000	20,000	10,000						45,000
MMA Dues (Town Administrator)				13,891					13,891
Town Salary Reserve (*) (Director of Finance)	1,910,000								1,910,000
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
Total General / Unclassified	2,640,000	865,507	10,000	7,122,509					10,730,911
TOTAL GENERAL APPROPRIATIONS	126,803,581	12,067,146	2,131,900	7,596,743	4,848,766	1,551,834		25,204,625	299,296,480

(*) NO EXPENDITURES AUTHORIZED DIRECTLY AGAINST THESE APPROPRIATIONS. FUNDS TO BE TRANSFERRED AND EXPENDED IN APPROPRIATE DEPT.

ARTICLE 8

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Background

The Civil Service Commission originally voted in favor of the Town's motion to dismiss the action brought by Gerald Alston against the Town of Brookline for his dismissal from the Brookline Fire Department. Mr. Alston appealed the Civil Service Decision to the Massachusetts Superior Court. The Superior Court, after review, re-interpreted the powers of the Civil Service Commission and sent the case back to the Civil Service Commission for reconsideration. Given the new interpretation, the Civil Service Commission found against the Town. The Town appealed the Civil Service Commission decision to the Superior Court and it was heard by the Judge who had heard the original Appeal from Mr. Alston, as he had retained jurisdiction over the case. The Superior Court decided against the Town's appeal of the Civil Service Commission decision. The Town appealed to the state Court of Appeals to reverse the Superior Courts reinterpretation of the Civil Service Commission's powers. This motion seeks to end the Town's appeal of that decision.

Discussion

The Advisory Committee recommend no action on this motion by a vote of 25 in favor of no action, with no one opposed and 4 abstentions.

Town Counsel explained the possible financial consequences of ending the Town's Appeal of the Superior Court Decision. As a result of the Civil Service Commission's decision that we reinstate Mr. Alston to the Fire Department roster, the Town paid Mr. Alston back pay from the time of his original dismissal until his reinstatement on the Fire Department roster and then began paying him his regular salary, plus benefits. Mr. Alston has not returned to work in the Fire Department and under the Civil Service Commission decision as it now stands it is unlikely that he will ever return to work in the Brookline Fire Department. If we do not pursue the appeal, we will continue to pay \$79,000 a year in salary, plus benefits and also incur additional overtime costs to cover the costs of the shifts left open by Mr. Alston's absence from work. The total cost is approximately \$109,780 a year. In total the cost to the Town until Mr. Alston reaches retirement age in FY2034 will be approximately \$1.9 million. He will then begin to draw retirement benefits at additional cost to the Town. Moreover, if we are forced to abandon the appeal, Mr. Alston's attorney will try to introduce the Civil Service Commission's decision in support of his action in the federal Appeals Court. The Federal Appeals Court is reviewing the Federal District Courts summary judgement in favor of the Town of Brookline. That summary judgement decision held that there was no dispute about the facts alleged, and that considering the facts presented in the most favorable light for Mr. Alston, he had failed to show that there was any legal basis for his discrimination suit against the Town of Brookline, so the Federal Court dismissed the case.

There is the moral question in the minds of many Town meeting members and residents about whether the Town ought to appeal the Civil Service Decision, because of the impact on Mr. Alston of his experience as firefighter. The financial impact on the Town is \$1.9 million, plus lifelong retirement benefits, plus the possible consequences of a federal jury's awarding damages to Mr. Alston. Does the total financial impact of the Civil Service Commission Decision and the possible additional penalties in the Federal Court case exceed our moral obligation?

Beyond that, the decision by the Superior Court Judge to re-interpret the rules governing the Civil Service Commission raises the potential for other government employees across all of Massachusetts who are terminated because they don't show up for work, to take their case to the Civil Service Commission on the basis that they have been victims of discrimination. That could be a long-term cost to Brookline, and to any other Massachusetts entity whose employees are covered by Civil Service.

The Town has tried to settle both the Civil Service case and the Federal Court case and Mr. Alston's legal team has refused to enter into settlement discussions. The Advisory Committee has been told that the Town remains willing to discuss settlement with Mr. Alston's legal team, but the case cannot be settled unless both parties agree to discuss settlement options, and that has not been the case with Mr. Alston's legal team.

Recommendation

The AC balanced the financial consequences, the moral question regarding what we owe Mr. Alston, the legal impact of being forced to abandon an appeal, and voted 25-0 with 4 abstentions to recommend no action on the amendment, 25-0 with 4 abstentions.

ARTICLE 8

**AMENDED MOTION TO REDUCE AND REDISTRIBUTE
THE POLICE BUDGET, OFFERED BY C. SCOTT ANANIAN, TMM10;
AND DONELLE S. O’NEAL SR., TMM4/AC:**

MOVED: That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by \$1,148,560, the Select Board appropriation for Services be reduced by \$50,000, and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by \$938,365, with Town Meeting recommending that the School Committee use these funds as follows:
 - BEEP shortfall: \$110,715, and
 - Social workers: 10 FTEs at \$82,765 each, including benefits (total \$827,650),
- The appropriation for the Affordable Housing Trust Fund be increased by \$244,000 with the funds earmarked for the following projects:
 - \$114,000 to negotiate contracts with Internet providers in support of distance learning for Brookline Housing Authority residents, and
 - \$130,000 for repairs to kitchens in the High Street Veterans and/or the Egmont Street Veteran’s properties of the Brookline Housing Authority;
and
- The appropriation for the Office of Diversity, Inclusion, and Community Relations in the Other category be increased by \$16,195, earmarked as seed funding for the Racial Equity Advancement Fund.

ARTICLE 8

**AMENDED MOTION TO REDUCE AND REDISTRIBUTE THE POLICE
BUDGET, OFFERED BY DEBORAH BROWN, TMM10 &
BONNIE BASTIEN, TMM5**

MOVED: That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by \$2,065,951, the Select Board appropriation for Services be reduced by \$50,000, and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by \$1,269,425, with Town Meeting recommending that the School Committee use these funds as follows:
 - BEEP shortfall: \$110,715,
 - Social workers: 10 FTEs at \$82,765 each, including benefits (total \$827,650), and
 - Enrichment and Challenge Support specialists: 4 FTEs at \$82,765 each, including benefits (total \$331,060);
- The appropriation for the Affordable Housing Trust Fund be increased by \$642,000 with the funds earmarked for the following projects:
 - \$114,000 to negotiate contracts with Internet providers in support of distance learning for Brookline Housing Authority residents,
 - \$350,000 for repairs to kitchens in the High Street Veterans and/or the Egmont Street Veterans properties of the Brookline Housing Authority,
 - \$109,000 for improvements to the High Street Veterans property of the Brookline Housing Authority, and
 - \$69,000 for improvements to the Egmont Street Veterans property of the Brookline Housing Authority;
- The appropriation for the Office of Diversity, Inclusion, and Community Relations in the Other category be increased by \$16,195, earmarked as seed funding for the Racial Equity Advancement Fund.
- The appropriation for the Office of Diversity, Inclusion, and Community Relations be increased by \$41,500 to support the implementation of the Community Engagement Plan, with \$30,000 for Services and \$11,500 for Supplies;
- The Personnel and Benefits appropriation for the Health Department be increased by \$78,587 to fund a Domestic Violence Advocate; and
- The Personnel and Benefits appropriation for the Economic Development Division of the Planning and Community Development Department be increased by \$68,244 to restore funding for the Economic Development Long Term Planner position.

Schools, Housing, and Inclusion Amendment

Marked up against the Schools and Housing Amendment. **Boldface** for additions, *italics* for deletions.

MOVED: That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by ~~\$1,148,560~~ **\$2,065,951**, the Select Board appropriation for Services be reduced by \$50,000, and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by ~~\$938,365~~ **\$1,269,425**, with Town Meeting recommending that the School Committee use these funds as follows:
 - BEEP shortfall: \$110,715,
 - Social workers: 10 FTEs at \$82,765 each, including benefits (total \$827,650), and
 - **Enrichment and Challenge Support specialists: 4 FTEs at \$82,765 each, including benefits (total \$331,060);**
- The appropriation for the Affordable Housing Trust Fund by increased by ~~\$244,000~~ **\$642,000** with the funds earmarked for the following projects:
 - \$114,000 to negotiate contracts with Internet providers in support of distance learning for Brookline Housing Authority residents,
 - ~~\$130,000~~ **\$350,000** for repairs to kitchens in the High Street Veterans and/or the Egmont Street Veterans properties of the Brookline Housing Authority,
 - **\$109,000 for improvements to the High Street Veterans property of the Brookline Housing Authority, and**
 - **\$69,000 for improvements to the Egmont Street Veterans property of the Brookline Housing Authority;**
- **The appropriation for the Office of Diversity, Inclusion, and Community Relations in the Other category be increased by \$16,195, earmarked as seed funding for the Racial Equity Advancement Fund.**
- **;The appropriation for the Office of Diversity, Inclusion, and Community Relations be increased by \$41,500 to support the implementation of the Community Engagement Plan, with \$30,000 for Services and \$11,500 for Supplies;**
- **The Personnel and Benefits appropriation for the Health Department be increased by \$78,587 to fund a Domestic Violence Advocate; and**
- **The Personnel and Benefits appropriation for the Economic Development Division of the Planning and Community Development Department be increased by \$68,244 to restore funding for the Economic Development Long Term Planner position.**

ARTICLE 8

**AMENDED MOTION TO REDUCE AND REDISTRIBUTE
THE POLICE BUDGET, OFFERED BY C. SCOTT ANANIAN, TMM10:**

MOVED by C. Scott Ananian, TMM10; seconded by Donelle S. O’Neal Sr., TMM4/AC: That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by \$1,148,560, the Select Board appropriation for Services be reduced by \$50,000, and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by \$938,365, with Town Meeting recommending that the School Committee use these funds as follows:
 - BEEP shortfall: \$110,715, and
 - Social workers: 10 FTEs at \$82,765 each, including benefits (total \$827,650),
- The appropriation for the Affordable Housing Trust Fund by increased by \$244,000 with the funds earmarked for the following projects:
 - \$114,000 to negotiate contracts with Internet providers, and other related costs, in support of distance learning for Brookline Housing Authority residents, and
 - \$130,000 for repairs to kitchens in the High Street Veterans and/or the Egmont Street Veteran’s properties of the Brookline Housing Authority; and
- The appropriation for the Office of Diversity, Inclusion, and Community Relations in the Other category be increased by \$16,195 to provide seed funding for the Racial Equity Advancement Fund.

Marked up from previous version:

MOVED by C. Scott Ananian, TMM10; seconded by Donelle S. O’Neal Sr., TMM4/AC:

That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by \$1,148,560, the Select Board appropriation for Services be reduced by \$50,000, and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by \$938,365, with Town Meeting recommending that the School Committee use these funds as follows:
 - BEEP shortfall: \$110,715, and
 - Social workers: 10 FTEs at \$82,765 each, including benefits (total \$827,650),

- The appropriation for the Affordable Housing Trust Fund by increased by \$244,000 with the funds earmarked for the following projects:
 - \$114,000 to negotiate contracts with Internet providers, **and other related costs**, in support of distance learning for Brookline Housing Authority residents, and
 - \$130,000 for repairs to kitchens in the High Street Veterans and/or the Egmont Street Veteran’s properties of the Brookline Housing Authority; and
- ~~An appropriation to the Racial Equity Advancement Fund be made of \$16,195.~~
The appropriation for the Office of Diversity, Inclusion, and Community Relations in the Other category be increased by \$16,195 to provide seed funding for the Racial Equity Advancement Fund.

ARTICLE 8

**AMENDED MOTION TO REDUCE AND REDISTRIBUTE THE POLICE
BUDGET, OFFERED BY DEBORAH BROWN, TMM10 &
BONNIE BASTIEN, TMM5**

MOVED by Deborah Brown, TMM1; seconded by Bonnie Bastien, TMM5:

That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by \$2,065,951, the Select Board appropriation for Services be reduced by \$50,000, and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by \$1,269,425, with Town Meeting recommending that the School Committee use these funds as follows:
 - BEEP shortfall: \$110,715,
 - Social workers: 10 FTEs at \$82,765 each, including benefits (total \$827,650), and
 - Enrichment and Challenge Support specialists: 4 FTEs at \$82,765 each, including benefits (total \$331,060);
- The appropriation for the Affordable Housing Trust Fund be increased by \$642,000 with the funds earmarked for the following projects:
 - \$114,000 to negotiate contracts with Internet providers, and other related costs, in support of distance learning for Brookline Housing Authority residents,
 - \$350,000 for repairs to kitchens in the High Street Veterans and/or the Egmont Street Veterans properties of the Brookline Housing Authority,
 - \$109,000 for improvements to the High Street Veterans property of the Brookline Housing Authority, and
 - \$69,000 for improvements to the Egmont Street Veterans property of the Brookline Housing Authority;
- The appropriation for the Office of Diversity, Inclusion, and Community Relations in the Other category be increased by \$16,195 to provide seed funding for the Racial Equity Advancement Fund;
- The appropriation for the Office of Diversity, Inclusion, and Community Relations be increased by \$41,500 to support the implementation of the Community Engagement Plan, with \$30,000 for Services and \$11,500 for Supplies;
- The Personnel and Benefits appropriation for the Health Department be increased by \$78,587 to fund a Domestic Violence Advocate; and
- The Personnel and Benefits appropriation for the Economic Development Division of the Planning and Community Development Department be increased by \$68,244 to restore funding for the Economic Development Long Term Planner position.

Schools, Housing, and Inclusion Amendment

Marked up against the Schools and Housing Amendment. **Boldface** for additions, *italics* for deletions.

MOVED by Deborah Brown, TMM1; seconded by Bonnie Bastien, TMM5:

That the FY2021 Brookline Police appropriation for Personnel Services/Benefits be reduced by ~~\$1,148,560~~ **\$2,065,951**, the Select Board appropriation for Services be reduced by \$50,000, and the following changes be made to other FY2021 appropriations:

- The appropriation for Schools be increased by ~~\$938,365~~ **\$1,269,425**, with Town Meeting recommending that the School Committee use these funds as follows:
 - BEEP shortfall: \$110,715,
 - Social workers: 10 FTEs at \$82,765 each, including benefits (total \$827,650), and
 - **Enrichment and Challenge Support specialists: 4 FTEs at \$82,765 each, including benefits (total \$331,060);**
- The appropriation for the Affordable Housing Trust Fund be increased by ~~\$244,000~~ **\$642,000** with the funds earmarked for the following projects:
 - \$114,000 to negotiate contracts with Internet providers, and other related costs, in support of distance learning for Brookline Housing Authority residents,
 - ~~\$130,000~~ **\$350,000** for repairs to kitchens in the High Street Veterans and/or the Egmont Street Veterans properties of the Brookline Housing Authority,
 - **\$109,000 for improvements to the High Street Veterans property of the Brookline Housing Authority, and**
 - **\$69,000 for improvements to the Egmont Street Veterans property of the Brookline Housing Authority;**
- The appropriation for the Office of Diversity, Inclusion, and Community Relations in the Other category be increased by \$16,195 to provide seed funding for the Racial Equity Advancement Fund;
- **The appropriation for the Office of Diversity, Inclusion, and Community Relations be increased by \$41,500 to support the implementation of the Community Engagement Plan, with \$30,000 for Services and \$11,500 for Supplies;**
- **The Personnel and Benefits appropriation for the Health Department be increased by \$78,587 to fund a Domestic Violence Advocate; and**
- **The Personnel and Benefits appropriation for the Economic Development Division of the Planning and Community Development Department be increased by \$68,244 to restore funding for the Economic Development Long Term Planner position.**

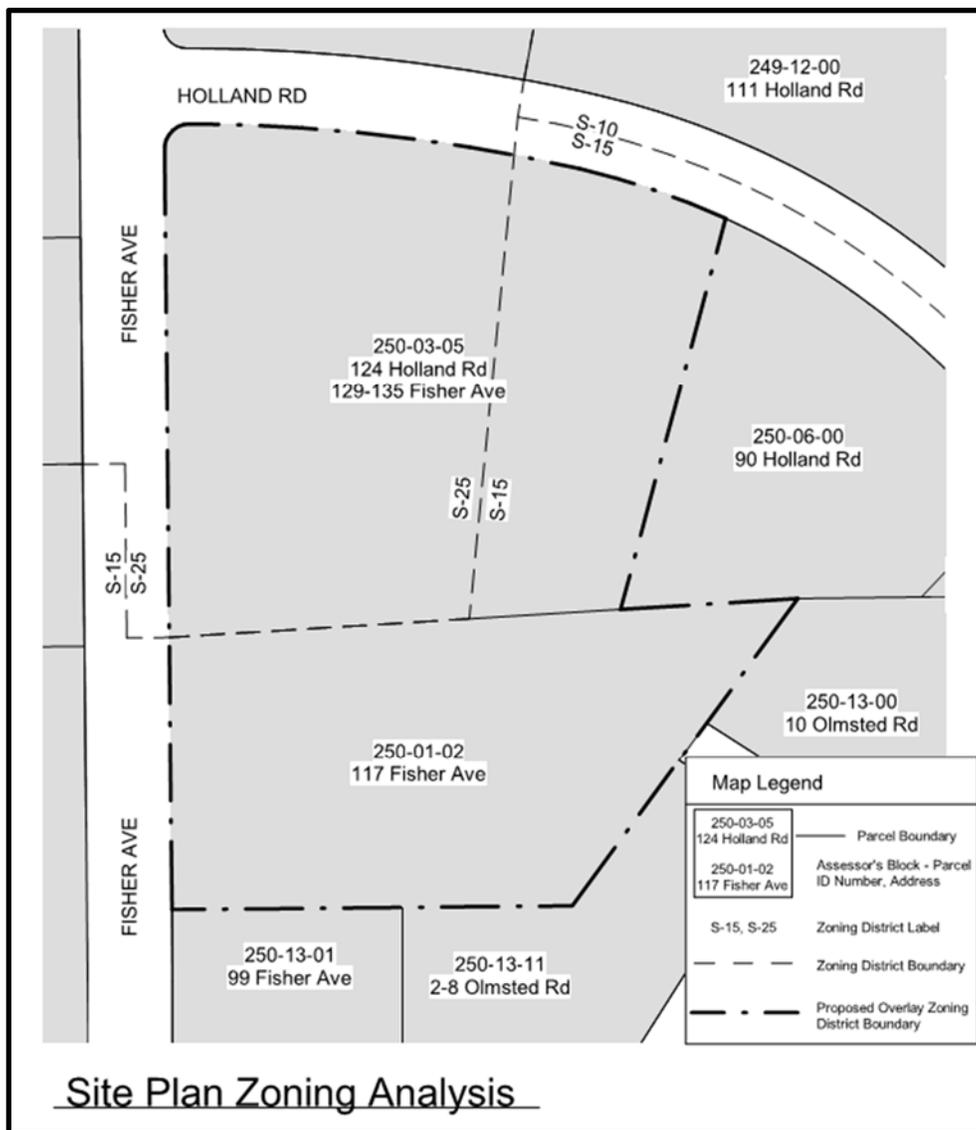
ARTICLE 9

NINETH ARTICLE

Submitted by: Paul Saner, on behalf of the Newbury Zoning Committee

To see if the Town will amend the Zoning By-Law and Zoning Map as follows:

1. By adopting the following map change, adding a Fisher Hill Special Overlay District as shown below, including: parcels with Tax Parcel Identifications 250-03-05 (124 Holland Road and 129-135 Fisher Avenue) and 250-01-02 (117 Fisher



Avenue).

2. By amending Section 3.01.4 by adding a new item at the end:

“g. Fisher Hill Special Overlay District”

3. By amending Section 4.07 – Table of Use Regulations – to allow for life care facilities on lots less than 5 acres but greater than 3 acres in the overlay district, by adding a sentence at the end of the description of Use 6A in the Use Table, underlined below:

Use 6A, Life care facilities, incorporating independent apartment living units for elders combined with supportive medical, nursing or other shared facilities.

*Allowed by special permit only on lots greater than 5 acres, but within the Fisher Hill Special Overlay District, the minimum lot size shall be 3 acres.

4. By amending Section 5.01 – Table of Dimensional Requirements – by adding Footnote 22 after the words “Any other structure or principal use” in the rows for the S-25 and S-15 Districts, which Footnote 22 shall also be added at the end of the Table and read as follows:

“22. See Section 5.06.4 – Special District Regulations, subsection l. Fisher Hill Special Overlay District with respect to uses and all dimensional requirements.”

5. By amending Section 5.06.4 – Special Districts – by adding a new item as follows:

“l. Fisher Hill Special Overlay District

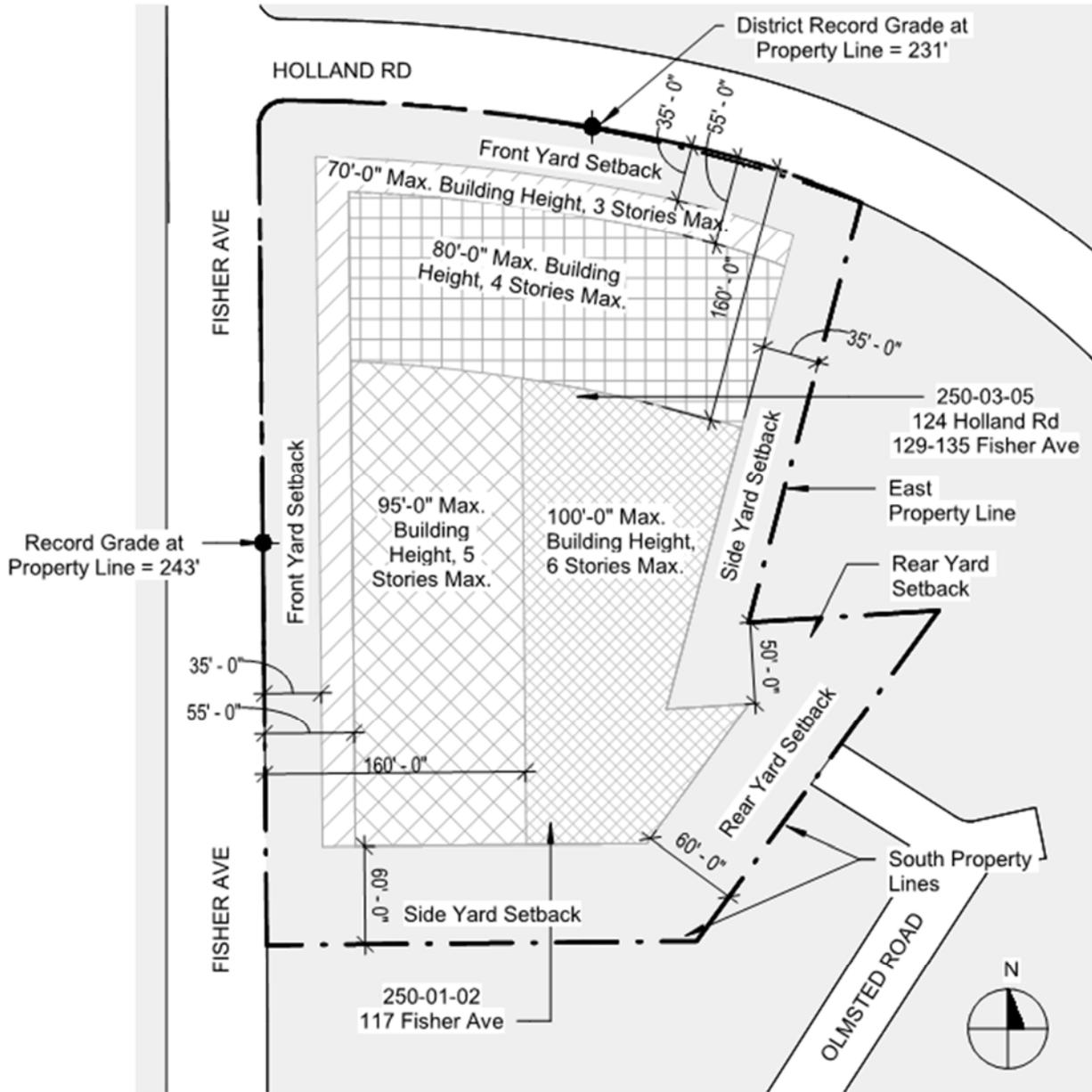
1) It has been determined through study of the former Newbury College campus that the potential exists for careful, planned redevelopment. It has further been determined that, due to the surrounding residential development pattern, and the municipal need for housing for an aging population, assisted living residential uses in a life care facility designed with a similar architectural character as the neighborhood are appropriate. Benefits to the community include maintenance for adaptive reuse of the Mitton House and creating a public easement along Fisher Avenue to preserve mature shade trees, and are significant reasons for why additional density may be allowed by Special Permit under the criteria of this section.

- 2) *At any point prior to December 31, 2020, an applicant may seek relief by Special Permit under this Overlay District by completing the Design Review preapplication process as set forth in Section 5.09 (3)(a)(2) provided the proposed project includes the following requirements and limitations:*
 - a. *Includes a minimum of three acres of contiguous land.*
 - b. *Includes a life care facility with a maximum of 160 units as its primary use including all related accessory uses.*

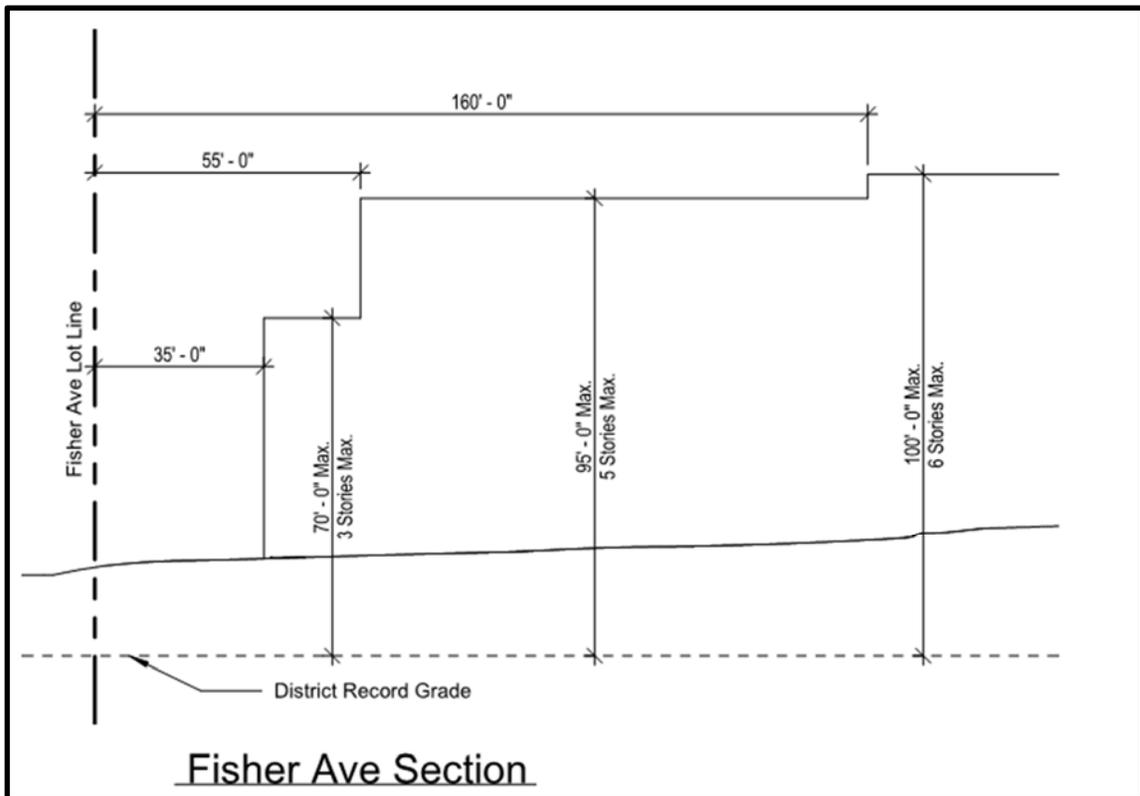
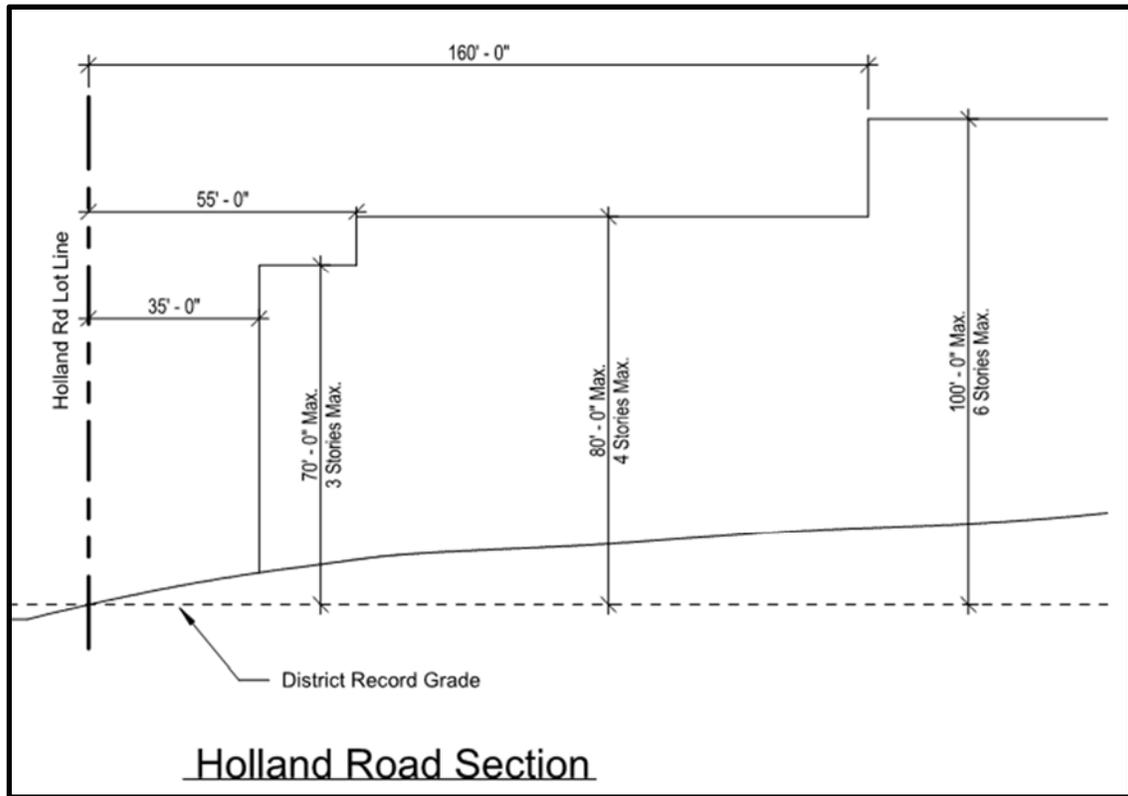
- 3) *The Board of Appeals may grant a Special Permit under this section allowing for a project that meets the following requirements and limitations. Conformance with said requirements and limitations shall be made conditions of the Special Permit.*
 - a. *Open Space*
 - i. *The project must dedicate a minimum of 40% of lot area towards Open Space. For the purposes of this requirement, Open Space shall include parts of a lot at ground level that are contiguous landscaped areas and walkways that include planted containers, landscaped beds, and/or street trees. Usable open space is not a requirement for this use.*
 - ii. *The open space requirements of **Table 5.01 — Table of Dimensional Requirements** may be reduced in accordance with Site Plan Review as noted in **Section 5.06.4.1.4** below.*

 - b. *Parking*
 - i. *98 parking spaces shall be provided with a minimum of 43 concealed.*
 - ii. *The number of parking spaces required per Article 6 of the Zoning By-Law may be reduced at the request of the applicant, following review of a parking study and favorable recommendation by the Planning Board.*
 - iii. *Parking area setback along the southern lot line shall be no less than 20 feet.*
 - iv. *The parking and drive requirements under Section 6.04, including stall width and depth, aisle width, and width of entrance and exit drives, may be modified in accordance with Site Plan Review as noted in Section 5.06.4.1.4 below.*

- v. Once a minimum of five years have passed since the issuance of a Certificate of Occupancy for any project promulgated pursuant to a Special Permit granted under this Section, the holder of said Special Permit may seek modification of the Special Permit to allow the provision of fewer than 98 spaces, but only through a reduction in the number of non-concealed parking spaces and only upon a showing to the Zoning Board of Appeals that such a reduction will not impact the neighborhood.*
- c. The Gross Floor Area Ratio for a project permitted pursuant to this section shall not exceed 1.15.*
- d. The maximum building height shall be 70' and three stories max. for portions of a building that are within 55' of Fisher Avenue and Holland Road. The maximum building height shall be 80' and four stories max. for portions of a building that are within 160' of Holland Road. The maximum building height shall be 95' and five stories max for portions of a building that are within 160' of Fisher Avenue. Otherwise, the maximum building height is 100' and six stories max. The maximum number of stories does not include basements or means of egress. These maximum building heights do not include rooftop structures such as elevator penthouses, chimneys, mechanical equipment, and mechanical screens. Building heights shall be measured from the District Record Grade rather than as prescribed in Section 5.30. The District Record Grade shall be the record grade of the Holland Road property line at the midpoint of the Holland Road boundary of the Fisher Hill Overlay District. Refer to Building Height and Setback Diagram. The Board of Appeals may grant a Special Permit for projections into front yards that do not comply with Section 5.51.*



Building Height & Setback Diagram



- e. The residential component of the project shall not include more than 160 living units. All 160 units may be market-rate.*
- f. Notwithstanding anything to the contrary in Section 4.08, for the purposes of satisfying the requirements of Section 4.08 the applicant may provide eighteen (18) affordable units off-site within 100 yards of the boundary line of this overlay district or make a cash payment not to exceed Six Million Five Hundred and Twenty Five Million Dollars (\$6,525,000).*
- g. Building setback requirements shall be as follows:*
From Fisher Avenue, no less than 35 feet;
From Holland Avenue, no less than 35 feet;
From east side lot line, no less than 35 feet;
From southern side and southern rear lot lines, no less than 60 feet;
From the rear lot line, no less than 50 feet.
Refer to Building Height and Setback Diagram.
- h. Accessory Structures allowed within the site setbacks include retaining walls, fencing, and utility equipment- ie generator and transformer. Setback for all structures is 6' min. from any lot line. Where required for emergency vehicle access, retaining walls and fencing can encroach on front yard setbacks.*
- i. Notwithstanding the provisions of Section 6.06.6, the number and size of required loading zones may be reduced in accordance with Site Plan Review as noted in Section 5.06.4.1.4 below. If the loading zone includes an area for trash and recycling this area for trash and recycling shall be enclosed. If the entire loading zone including the area for trash and recycling is fully enclosed, such area shall not count towards the project's total gross floor area.*
- j. Design Standards: During their review of all proposed building designs, both the Design Advisory Team and Planning Board shall consult the Fisher Hill Special District Design Guidelines*

developed by the Newbury Zoning Committee for guidance on general exterior massing, scale and design.

4) *Any application including new structures that seeks relief under this Overlay District shall:*

a. be subject to Site Plan Review by the Planning Board to ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian, bicycle and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish and recycling removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:

i. Demonstrated design compliance with any General By-Law related to erosion and sediment control and stormwater management;

ii. Property lines and physical features, including roads, driveways, parking for vehicles and bicycles, loading areas and trash storage for the project site; and

iii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, and exterior lighting.

- b. be deemed a Major Impact Project with respect to Section 5.09, Design Review.*
- c. include as a condition of the special permit a Transportation Access Plan Agreement (“TAPA”) approved by the Director of Transportation that includes Transportation Demand Management (“TDM”) programs.*

5) Allowing the additional density through the Special Permit contemplated by this Section has a potential benefit contemporaneous with its inclusion in the By-Law. However, planning objectives potentially achieved by this Section may not be met if substantial time elapses. Therefore, if upon closing the public hearing on the Special Permit contemplated herein, the Board of Appeals finds: (a) more than two years has elapsed since the opening of the public hearing; and (b) the amount of elapsed time is, in the discretion of the Board, excessive and contravenes the planning objectives of this Section, the Board may deny the request for a Special Permit.

6. By amending Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements – by adding a new footnote as follows:

“4. For the Fisher Hill Special Overlay District, parking requirements shall be no less than 0.5 space per unit. Section 6.02.2.h shall not apply”.

7. By amending Section 7.07 – Sign By-Law – Exceptions to the Above – by adding to Section 7.07.1 a new item at the end:

“f. The Board of Appeals may by special permit grant relief to the requirements of Section 7.01 for signage for the buildings in the Fisher Hill Special Overlay District subject, however, to compliance with the Design Review Procedures set forth in Section 7.08 and the Design Guidelines adopted for this district.”

...or act upon anything else relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Summary

The Newbury Zoning Committee (NZC) voted at its meeting on March 4th to sponsor seven interrelated warrant articles dealing with the former Newbury College campus. This “package” of articles is the result of over 8 months of negotiations between the Town and Welltower, Inc. (“Welltower” or the “Developer”), the new owner of the campus. Welltower is a Real Estate Investment Trust (REIT) and a senior housing developer.

The three key components of the transaction are:

1. Proposed “**Fisher Hill Special Overlay District**” (the “Overlay District”) to allow Welltower to develop a senior living community on a portion of the property. The Developer has indicated that if the Fisher Hill Special Overlay District is not approved at the May Town Meeting it intends to sell the property in one or more pieces.
2. Related **Affordable Housing Inclusionary Zoning Alternatives. Town Meeting is being presented with two** alternative paths by which Welltower may satisfy its affordable housing obligations in connection with its senior housing project.
3. Assuming the Fisher Hill Special Overlay District Zoning is passed by Town Meeting and subsequently approved by the Attorney General, the Town will have the **Opportunity to Purchase** that portion of the property located on the West side of Fisher Avenue (“former West Campus”) for \$14.8 million, a below-market price, if a debt exclusion vote planned for May 5th is approved by the voters and followed by Town Meeting approval of the acquisition. If either of those two steps fail, the Town will otherwise **share in sale proceeds over \$14.8 million** when the former West Campus is sold by the Developer to another party. A description of the property to be acquired is contained in Article X7 which is the authorization to purchase the former West Campus.

The articles are listed below:

Article	Warrant Reference	Comments
Article X1	Fisher Hill Special Overlay District Zoning	If Articles X1-X4 are not approved, the Developer has indicated its intent to sell off the property to another buyer. Articles X5, X6 and X7 would then be moot.
Article X2	Acceptance of Restrictive Covenant	

Article X3	Authorize Select Board to enter into Memorandum of Agreement	
Article X4	Acceptance of an easement protecting trees along Fisher Avenue	This easement will protect trees along Fisher Avenue and allow the linkage of the Tax Certainty Agreement to the Project Site.
Article X5	125 Holland Zoning	If Article X5 is not approved, the inclusionary zoning requirement will be met with the Alternative Cash Option.
Article X6	Municipal Use Overlay Zoning	Approval of Article X6 is necessary for the Town to be able to use the former West Campus for municipal uses, most notably municipal office and associated support services if Article X7 is approved.
Article X7	Authorization to acquire former Newbury College West Campus	If Article X7 is not approved, the Developer will sell the former West campus to another buyer. The Town will share in the proceeds of the sale for the portion of the sale price above \$14.8 million.

Town Benefits: If passed, the articles will provide significant benefits to the Town, including:

- Substantial inclusionary zoning (affordable housing) commitments;
- New and secure property taxes, with a present value to the Town estimated to range from approximately \$40 million to \$60 million¹ and memorialized in the tax certainty agreement (Article x4);
- Sustainability undertakings including voluntary compliance with the No Fossil Fuels By-law²;
- The maintenance and adaptive re-use of the historic Mitton House; and
- Other community benefits (such as partnering with the Senior Center and Teen Job Fairs).

Passage of the Fisher Hill Special Overlay District zoning article is a prerequisite of Welltower offering the Town the opportunity to acquire the west side of the former campus. The Town’s acquisition of the west side is dependent on both the voters and

¹ The range reflects 3% and 4% discount rates. The Town’s long term cost of capital is currently about 2%. Present value was calculated over 95 years.

² With an expected limited exemption request for heating the water of an indoor pool

Town Meeting approving it and funding it.³ Article X6 is a zoning Article that would allow the Town to use the West Campus for short-term, interim municipal uses while it undertook an intensive process involving the community to determine the final use of the former West Campus.

The Town's real estate advisor, McCall & Almy (<http://mccallalmy.com/>), has considered the following questions: (1) *What is the highest and best use for the East side property and how does that compare to both the land value attributable to the senior living proposal as well as to what is allowed under zoning?* and (2) *Did we get as much from the developer as we could?*

The Town's advisors believe a tax-exempt educational use is the highest and best use for the former Newbury campus. If the property were sold to such an institution, the Town would not receive any tax revenue⁴, nor would there be any new affordable housing units built or funded. Further, if such an educational entity elected to invoke the Dover amendment, the Town's ability to control what happens on the site, an important goal of the neighborhood, will be limited, although, according to Ch. 40A sec. 3, the Town may impose reasonable dimensional controls on such a development.

See the **Commonly Asked Questions Regarding the Property and the Transactions** section at the end of this explanation for a discussion of these and other questions, a financial analysis of the Welltower development, and related issues.

Background and Developer

In December 2018, Newbury College ("Newbury" or the "College") publicly announced that it would be closing its 7.87-acre campus atop Fisher Hill at the conclusion of the 2019 spring term. Non-profit educational uses have been located there for nearly 70 years, and this is a by-right allowed use throughout the Town. Due to its tax-exempt status, the College was not paying taxes but was making a small voluntary PILOT. The property is located in an area zoned for single-family residential (S-15 and S-25).

The Spring 2019 Bid Process

In early 2019, the College's Trustees engaged Colliers International to sell the property. Specific transaction terms required a single buyer for the entire property and there was a stated preference for bids containing neither permitting nor financing contingencies.

³ Technically, Town Meeting could approve the purchase even if the voters reject it but the strain such an acquisition would put on the Town's Capital Improvement Program would be a strong disincentive for the Select Board to act on the authorization.

⁴ The Town would likely attempt to negotiate a PILOT ("Payment In Lieu of Taxes") agreement for some revenue but, even if successful, such payments would likely be substantially less than the tax revenue from the project being discussed.

The Town engaged McCall & Almy in early 2019 to assist the Town in its pursuit of the Newbury campus. McCall & Almy served as the Town's professional advisor throughout the competitive auction process and acted as intermediary between the Town and Colliers International. McCall & Almy confirmed that Colliers planned to run its process as an auction with multiple rounds of bidding. McCall & Almy guided the Town in its formulation of a bidding strategy which was designed to: i) allow for the Town's advancement to each subsequent round of bidding while also ii) attempting to secure the property for the Town at the lowest possible price. Given Newbury's desire to quickly find a buyer, there was a sense that Newbury might accept a lower bid from the Town given its credit worthiness and credibility. In an attempt to provide Newbury with certainty of closure, the Town structured all but its final bid at price levels that did not require the contingency of a debt exclusion vote. Because the Town's decision-making and capital procurement process is political in nature, the Town was at a competitive disadvantage in the auction process relative to many other bidders. In the "final and best" round of bidding, the Town put forth an offer to purchase the property in excess of \$30 million, subject to a debt exclusion vote contingency. Final and best bids were due just after the failed May 2019 debt exclusion vote, highlighting to Newbury the risk that the Town might not approve a debt exclusion for the acquisition of the property.

Welltower as the Winning Bidder

In June 2019, the Town was confidentially approached by representatives of Welltower Inc., the winning bidder. Welltower is a major health care REIT (NYSE: WELL) that develops and owns senior housing, assisted living and memory care communities, as well as post-acute care facilities and medical office buildings. Welltower generally owns assets by itself or in joint venture with other entities. As a REIT, Welltower does not directly operate its properties and either leases them under long-term triple net leases or owns them subject to management agreements with leading industry operators. Recently, Welltower has grown its direct development portfolio, targeting state of the art, luxury senior housing developments in growing urban areas, particularly in coastal markets. On February 10, 2020, Welltower was recognized as a "Global Leader in Sustainability Performance" by S&P Global. While Welltower owns many senior living facilities in Massachusetts, Newbury would be Welltower's first direct development in the metropolitan Boston market.

Welltower's representatives disclosed that they had the entire 7.87-acre Newbury property under contract to purchase, subject to the Attorney General's approval of the Newbury Trustees' disposition plan. Welltower requested that the Select Board immediately upon Welltower's closing on the acquisition, to begin work on a zoning change to enable the development of a high-end senior living community, incorporating the maintenance and adaptive re-use of the Mitton House, on the East side of the campus⁵. In addition, Welltower offered to sell to the Town the former West Campus⁶.

⁵ A total of 3.88 acres at 117 Fisher Avenue and 124 Holland.

⁶ A total of 3.13 acres at 110 Fisher Avenue, 124 Fisher Avenue, 150 Fisher Avenue, and 146 Hyslop Road.

Welltower also indicated its intent to sell the final Newbury parcel, the .87 acre 125 Holland Road site, given that it was not part of the senior care facility development. Thirty days after the Attorney General approved the transaction, Welltower finalized the purchase for \$34 million, representing 13% less than the property's \$39.1 million assessed value at the time of sale.

In anticipation of the closing, the Select Board created and charged the Newbury Zoning Committee ("NZC"). See <https://www.brooklinema.gov/1720/Newbury-Campus-Zoning-Study-Committee> for plans, minutes, and the identities of NZC members, many of whom had served on the previous Newbury Acquisition Committee. Members consisted of real estate professionals, neighbors, and two Select Board members. The Town Administrator and representatives of the Planning Department and Town Counsel's office provided staff support to the NZC.

Welltower repeatedly requested that the Town expeditiously review its request for a zoning change since its intentions were, and remain, to commence construction as soon as possible. Since October 2019, there have been 10 public meetings of the NZC, 7 of the Architectural Subcommittee and 8 of the Negotiations Subcommittee (mostly in Executive Session) in addition to a number of working group negotiations with Welltower.

The recent Brookline Fiscal Advisory Committee report recommends expanded economic development with targeted zoning changes to provide much needed new tax growth. Newbury is a unique opportunity to do this in a residential zone where an educational use has a value greater than residential. That is rarely the case in Brookline.

Package Negotiated with Welltower

Negotiations with Welltower focused primarily on 3 topics: i) the proposed size and design of the senior living community, ii) the inclusionary zoning (affordable housing) alternatives, and iii) extracting value from the former West Campus either in the form of a discounted purchase price for the Town or revenue sharing upon the potential sale of the property to a party other than the Town. McCall & Almy advised the Town and directly participated in the negotiations. Market and financial feasibility analyses were provided by Pam McKinney (<https://tinyurl.com/sq3k8z7>), an independent consultant who has been the Town's real estate financial consultant for a number of negotiated overlay zones. Gary McCabe, the recently-retired Chief Assessor, provided advice on the projected senior living real estate taxes.

Ms. McKinney concluded the proposed unit mix and project scale are necessary to enable operational efficiency and financial feasibility.

The Town focused its negotiating efforts on securing for the Town the requirements Welltower, as the developer of a major project in the Town, would need to follow – most

particularly the means by which it would meet its inclusionary zoning requirement – along with memorializing the benefits and planning objectives the development would advance while mitigating its impacts. The main municipal benefit pursued by the Town’s negotiators was the creation of value from the disposition of the West Campus: either through the lowest possible purchase price in an acquisition by the Town or, should the voters elect not to proceed with the acquisition, the highest return in a profit-sharing arrangement if Welltower were to sell it to a third party. However, as noted above, the fiscal benefit of a completed and operational Welltower project to the Town was considerable, so negotiations needed to be pursued in a manner that would not jeopardize the viability of the entire transaction. Finally, all parties involved recognized that a failure to negotiate a deal would likely lead to a sale of the former Newbury campus to one or more tax-exempt educational uses, with an attendant loss of tax revenue.

Through the MOA, Welltower has committed to sustainability requirements and goals in excess of State and local requirements, Transit Demand Management (TDM) measures, the maintenance and adaptive re-use of the Mitton House, the two affordable housing inclusionary zoning alternatives before Town Meeting, and the opportunity for the Town to purchase the former West Campus or otherwise share in sale profits in excess of what the Town would pay as well as other community benefits.

Fisher Hill Special Overlay District

The Fisher Hill Overlay District proposes zoning changes to the 3.88-acre Newbury College East Parcel fronting on Fisher Avenue. Even though the existing site has been used as a college campus, it is zoned for single family residences.

The Overlay District zoning would allow, by special permit, the development of Balfour at Brookline, an approximately 193,000 square foot senior living community. The redevelopment includes the maintenance and adaptive re-use of the 20,000 square foot historic Mitton House, and will require the demolition of 75,000 square feet of existing structures. The project is expected to contain approximately 160 luxury market rate senior rental units, with approximately 80 independent living, 40 assisted living and 40 memory care units⁷.

Proposed Zoning and Summary Project Design

The proposed Overlay District allows by special permit a maximum Floor Area Ratio (FAR) of 1.15. This overlay zoning **sunset**s if the required special permits are not applied for **by the end of 2020**, or in the event of the developer not using best efforts to diligently receive all permits and approvals subject to financing and economic conditions. The proposed Overlay District leaves in place the existing residential zoning which consists of S-25 (FAR of .20 with .25 for cluster by special permit) as well as S-15

⁷ This is the current allocation of units and is subject to minor adjustments.

(FAR .25 or .30 for cluster by special permit). The proposed 193,000 square foot project would slightly more than double the amount of floor space currently on the property.

Balfour at Brookline would be a major impact project requiring a Design Advisory Team (DAT) appointed by the Planning Board. Over the course of several public meetings, the NZC Architectural Subcommittee guided a 9% reduction to the proposed building mass, as well as significant changes to the site plan and building design. The NZC Architectural Subcommittee has also developed design guidelines to inform the DAT, which have already been reviewed by the Planning Board. Welltower has requested that the DAT be appointed in June should Town Meeting approve the zoning change.

The Welltower architectural team consists of Robert A.M. Stern Architects (RAMSA), a distinguished architecture firm based in New York City, and Finegold Alexander Architects, an established local architecture firm. The proposed design references the architectural traditions found in the surrounding residential neighborhood. It reinforces a neighborhood scale at grade and activates the street edge with open space in excess of what presently exists by varying setbacks and building heights. These range from a low of three stories or 70 feet along Fisher Ave and Holland Road to a range within the interior of 80 to 95 feet and five stories to a maximum of 100 feet and 6 stories.

Balfour at Brookline will contain two courtyards that face Holland Road and Fisher Avenue, allowing the preservation of large existing street trees. There will be two piazzas where residents enter the building as well as sheltered parking. Gambrel and hipped roof forms are expected to reduce the appearance of the project's size. The project will result in an increase in both open and green space.

There will be 98 parking spaces, 43 of which will be sheltered. The approximately 0.6 spaces per unit is deemed sufficient given the expected low use of cars by residents and the TDM measures to which Welltower has committed. After 5 years, based on operating experience, a special permit may be applied for to reduce the amount of exterior (not sheltered) parking.

Anticipated Operating Approach

Welltower has selected Balfour Senior Living <https://balfourcare.com> as the operator of Balfour at Brookline. In 2019, Welltower formed a new relationship with this Denver, Colorado-based premier operator of luxury independent, assisted living and memory care communities.

Balfour at Brookline will offer an all-inclusive lifestyle including distinctive restaurant venues, over 200 life enrichment programs each month and complimentary scheduled transportation. Facility amenities will include a large centralized dining room with adjacent great room, lounge, salon, indoor swimming pool, fitness center, library and upper-floor sky bar.

The approximately 80 Independent living units will range in size from about 750 sq. ft. to 2,000 sq. ft., and all will contain either 1 or 2 bedrooms and have full kitchens with in-unit washer and dryers. Rents are projected to average \$9,600 per month with all utilities included. Also included will be a range of services and amenities, including an extensive activities program containing a variety of lectures, educational, cultural and musical events. There are a number of meal plan options and some services may require an additional fee.

The 40 assisted living units will average approximately 450 sq. ft. and will have modified kitchens. These units will consist of studios, and 1- and 2-bedroom units and will have in-unit washers and dryers. Rents are projected to average \$8,700 per month with all utilities included. Extensive activities with entertainment and a variety of educational events will be run within the assisted living wing which has a separate kitchen and community dining room serving all meals. Nursing services will be provided including assistance with medication administration. In addition, advanced high-tech monitoring systems will be provided so that nursing staff can monitor remotely the residents' activity levels 24/7 to ensure that nursing staff is aware of activity levels relating to the health and well-being of the residents who need assistance. Residents will receive a basic level of care and for those who need or request additional services they will be available at an additional cost.

The 40 Memory Care Units will average 350 sq. ft. and average monthly rents are projected to be \$10,700. All meals are provided as these units do not have kitchens. Residents have a separate activities program and dining room. The Memory Care units are staffed 24/7 with slightly higher overnight staffing than the Assisted Living Units and are all located within a secure wing.

The community will have a Director of Nursing whose sole focus and responsibility is for the care of residents in the assisted living and memory care units. The Director of Nursing will also supervise the nursing staff made up of RNs, LPNs and CNAs. Residents of the Independent Living units will also have access to nursing care should they require it in an emergency. Balfour asserts that this complement of on-site nursing staff sets Balfour apart from other Senior Living facilities and not only provides a high level of care and security to its aging residents, but also reduces the need to use 911 services for non-emergency situations.

Nursing staff will be on-site 24/7. There will be three employee work shifts with staff allocated among all three unit types. Approximately 50 employees will work the morning and afternoon shifts, while the overnight shift will have approximately 10 employees.

Anticipated Net Fiscal Benefits and Tax Certainty

The Tax Certainty Agreement will be triggered if Town Meeting votes in favor of the Fisher Hill Overlay District article and the Attorney General approves it. The Tax

Certainty Agreement has a term of 95 years with the proposed senior living community use taxed at the residential rate. Welltower has agreed separately to hold all associated personal property in an entity taxable by the Town, which will mean the Town will be able to assess personal property tax on it at the higher commercial rate. Once the Project is completed, the Tax Certainty Agreement will be recorded, ensuring that it will run with the land and apply to Welltower or any successive owner of the property for the full term.

Determining a future assessed value for this type of asset is complicated with few if any comparable properties to look to as examples. Further, Balfour at Brookline has operating business components generating significant value that are not subject to real estate tax. While the Developer believes the taxes upon stabilization will be about \$800,000 (assuming the current tax rate and no overrides), the Town's tax consultant believes this may be a conservative estimate.

Fiscal costs to the Town associated with this development are not expected to be significant. Balfour will have on-site 24/7 nursing staff to limit the number of 911 calls generated by the facility to an expected average of one call per week. The Town is not responsible for paying for ambulance service, and it is anticipated that there is sufficient capacity if police and fire EMTs also respond to calls.

The present value of the fiscal benefits has been calculated to range from approximately **\$40 million to \$60 Million**. That range is based on the \$800,000 estimate beginning in late 2025, the projected date for stabilized occupancy and 3 years after the tax certainty agreement starts.⁸ The three-year lease-up after projected completion is a standard assumption according to Ms. McKinney. The analysis assumes the \$800,000 grows at the rate of 2.5% annually over 92 years (the maximum amount the overall tax levy can increase but conservatively assumes no operating overrides which would increase the tax). The analysis also uses a discount rate of 3% and 4%, conservative figures given the Town's current long-term cost of capital of approximately 2%.

In addition, building permit fees are estimated to be at least \$1.5 Million.

Negotiated Sustainability Benefits:

The following sustainability commitments are contained in the MOA:

1. As envisioned by the recently passed Article 21 of Fall 2019 Town Meeting (Prohibition on Fossil Fuel Infrastructure), no use of natural gas or fuel oil except for the commercial kitchens, emergency generator, and domestic hot water⁹.
2. LEED-NCv4 Gold Certifiable.
3. Developer will optimize the building for solar renewable energy measures and will consider photovoltaic and solar thermal where feasible.

⁸ There will be smaller tax payments from the issuance of the Certificate of Occupancy made until then.

⁹ The developer has stated their requirement to use natural gas to heat an indoor pool.

4. To the extent feasible as reasonably determined by the Developer, it will implement so-called Passive House strategies to reduce energy use.
5. Implement Site Sustainable Measures which will include the following:
 - a. Consider the use of permeable pavements such as permeable asphalt for driveways and parking areas, and permeable concrete pavers for the vehicular entry plaza, Holland Rd. Overlook, and other site features where feasible.
 - b. Stormwater control measures will optimize on-site filtration using rain gardens and bioswales.
 - c. Install native and drought tolerant plants. Incorporate bird friendly and pollinator plants.

Negotiated Community Benefits:

The following community commitments also are contained in the MOA:

1. Balfour will partner with the Council on Aging and/or Brookline Community Aging Network (“CAN”) on various cultural, educational and/or musical/artistic events at least quarterly. Such events shall be either at the Project Site or the Senior Center or such other public place as mutually agreed upon. Welltower has also agreed to make a voluntary contribution of \$2,500 per year to the Senior Center to support its programming.
2. Provide community space for meetings of local neighborhood associations or other Brookline non-profits up to once a month or 12 times per year.
3. Balfour will hold a job fair at the Brookline Teen Center or other public venue and, to the extent permitted by law, will give qualified Brookline residents preference for jobs at Balfour at Brookline. In order to make Brookline residents aware of job opportunities, Balfour will send a notice of such job opportunities to the Town. Balfour will also work with the Brookline High School culinary arts and restaurant program to provide, from time to time, paid or unpaid internship opportunities for students engaged in the culinary arts program at the High School.
4. A Public Easement Area will be provided to create a green buffer of mature trees on Fisher Ave maintained by Developer.
5. The Developer will provide a landscape buffer to abutters on the south side entry.
6. Electric vehicle charging stations will be provided in excess of Town requirements for Project residents and guests.
7. Full cut-off exterior light fixtures with LED lighting. Use of pole mounted fixtures limited to surface parking areas.
8. Optimize Energy Efficiency of Building Systems
 - a. Provide water-efficient plumbing fixtures;
 - b. Perform building commissioning training for Operations and Maintenance

Compliance with Findings and Mitigation Suggestions from Transportation Study

The scope of the transportation study paid for by Welltower and completed by VHB was developed in consultation with the Town's Transportation Department staff. The study treated the entire senior housing development as *new* for impact analysis purposes and did not take any traffic credit for the prior college use nor consider traffic impacts from future uses of the West campus. Since the average age of residents at the time of entry is expected to be approximately 82 years, car ownership will be relatively low and the potential for resident trips by personal automobile is expected to be minimal. The operations of the proposed facility are aimed at reducing the number of automobile trips to and from the site and minimizing single occupant vehicles. Specifically, Balfour will implement the following transportation demand management ideas along with other measures:

1. Staggered employee shifts that do not coincide with peak roadway traffic hours
2. Employee shuttles will be run to the nearest train stations (C and D Green line stations to the north) and employee T passes will be subsidized
3. Residents will have access to electric vehicles and vans with drivers for shared trips to appointments and errands
4. No trailer truck deliveries, except for moving trucks hired by residents, will be allowed to service the site
5. Bicycle parking will be provided on-site and showers/dressing rooms will be available for employees
6. New on-site walkways will connect to the existing sidewalk on Fisher Avenue

VHB's report concludes that additional peak period traffic estimated to be generated by the development falls within the range of daily fluctuations in traffic volumes and will not be perceptible to a typical driver traveling through the area. Detailed analysis presented in the study indicates that the existing transportation infrastructure in the area can adequately support development related traffic. The report also concludes no off-site traffic mitigation will be necessary to support the development.

Negotiated Inclusionary Zoning (Affordable Housing) Alternatives

While the main project includes 160 total units, only 120 of those units—the approximately 80 units of service-supported senior housing and the approximately 40 assisted living units—are covered under the Town's Inclusionary Zoning By-law. The 40 memory care units are not considered full dwelling units under Inclusionary Zoning as they do not have cooking facilities.

The NZC Negotiating Subcommittee, with input from the Housing Advisory Board (HAB), sought to arrive at an affordable housing recommendation which would fulfill as closely as possible the various provisions of Brookline's existing Inclusionary Zoning By-law. The ultimate recommendation, along with all of the other Town objectives, had to remain within Welltower's overall financial feasibility constraints. These financial limitations were evaluated by the Town's consultant.

Town Meeting will actually be provided the opportunity to choose between two distinct affordable housing plans, both of which were unanimously voted as acceptable by HAB.

HAB Preferred Plan: Develop 18 new mixed-income affordable condominium units at 125 Holland Road, a part of the former Newbury College campus directly across from the main project. This plan is a preferred alternative under the Town’s Inclusionary Zoning By-law and by the HAB. Because 125 Holland Road would require an affordable housing zoning overlay, this preferred option would require a 2/3 vote of approval by Town Meeting.

Acceptable alternative plan: Welltower would contribute \$6.525 million to the Housing Trust Fund. The Housing Advisory Board has recommended that these funds be earmarked for the exclusive prescribed use of the Brookline Housing Authority (BHA). The BHA would be required to apply these funds to redevelop its Colonel Floyd senior housing property on Marion Street, including replacing 60 obsolete senior housing units and adding 40 to 45 new low-income senior rental housing units. This acceptable alternative plan does not require re-zoning. Should the needed rezoning for the preferred plan not receive the required 2/3 vote, the Colonel Floyd/BHA alternative plan would become effective as part of a majority Town Meeting vote to approve the Memorandum of Agreement (MOA) for the main project.

The Inclusionary Zoning By-law requires 15% or 18 of the 120 housing units to be affordable. The preferred 125 Holland Road development plan includes 18 affordable ownership units, with 6 units affordable to households earning up to 80% of the Area Median Income (AMI), 6 units affordable to households earning up to 100% of AMI, and 6 units affordable to households earning up to 150% of AMI. With 40 to 45 new affordable units, the alternative BHA plan would exceed the minimum 15% requirement and serve primarily households earning less than 50% of AMI.

A third option that is generally prescribed under the existing By-law—direct integration of the affordable units within the main project—was evaluated at the outset and determined by all parties to be infeasible for this type of project because the very costly service/support amenity package is inseparable from the housing component. Only about six affordable units would have been feasible under this option.

Further detail comparing the preferred 125 Holland Road plan with the alternative Colonel Floyd/BHA plan appears in the following table.

	<u>125 Holland Road: 38,000 sq. ft. parcel</u>	<u>Brookline Housing Authority: Existing BHA Col. Floyd property with available</u>
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	adjacent to main Welltower project	land
Zoning By-law preference	Adjacent offsite development is #1 of 3 defined By-law alternatives	Payment to Trust Fund for future affordable housing development is #3 of 3 alternatives
Zoning By-law compliance (4.08)	Meets 15% requirement but some units serve income range above current by-law range	Payment is less than the By-law formula, but yields over 2x the minimum 15% of total units
Up-zoning required	Yes	No; eventual parking relief may be needed
Creation of new affordable units	18 affordable ownership units (15% x 120) serving incomes up to 80% (6 units), up to 100% (6 units), and up to 150% (6 units) of AMI and available to all age groups	40 net new affordable rental units targeting incomes at 50% of AMI + 60 replacement units available only to seniors
Geographic dispersion of affordable housing	Would augment 24 existing affordable units on Fisher Hill (Olmsted Hill)	Would increase affordable housing concentration near Coolidge Corner
Timing and delivery	By yearend 2022. May be longer than main project but earlier than BHA option.	Depends upon timing of state subsidy awards. Could take 1-2 years longer to complete.
40B – SHI inventory credit	Minimum 6 units would qualify for 40B SHI inventory credit	All the 40 new units would receive 40B SHI inventory credit
Affordable Housing developer	Anticipated to be: New Atlantic Development—developer of Olmsted Hill Affordable Housing-- designated and supported by Welltower ¹⁰	Brookline Housing Authority
Physical features	Max. 0.5 FAR; Max.18,965 GSF; 2.5 floors; 18 affordable units, most or all 1-bedroom w/most parking under new building area; Preserve/add to existing building if feasible; otherwise all new construction	One or more multistory elevator buildings at Col. Floyd site. Would replace 60 obsolete 2-story walk-up senior housing units and add 40-45 net new units for a total of 100-105 new 1BR units. Welltower contribution would be one component of a larger finance and subsidy package for the BHA project.

COMMONLY ASKED QUESTIONS REGARDING THE PROPERTY AND THE TRANSACTIONS

¹⁰ Note that the selection of New Atlantic is subject to Welltower and New Atlantic entering into a binding agreement with respect to the development of the 125 Holland Site.

What is the highest and best use for the East side property and how does that compare to both the land value attributable to the senior living proposal as well as to what is allowed under zoning?

As part of the Town's due diligence when formulating its bid, McCall & Almy prepared a set of opinions of land value based on a range of residential and continued educational uses:

Newbury College - "East Campus" 3.88 acre site (168,856 square feet) Range of Land Value Scenarios and Associated Town Benefit				
Scenario	Unit Count	Estimated Value	NPV Stream of Tax Payments ¹	Affordable Housing Contribution
Educational User	N/A	\$ 18,900,000 ⁴	N/A	N/A
Welltower Senior Living Project	160	\$ 17,000,000 ⁴	\$40-\$60 million ⁵	\$ 6,525,000
Cluster Residential Development ²	12	\$ 5,300,000	\$ 7,250,000	\$ 2,000,000
"As of Right" Residential Development	6	\$ 4,300,000	\$ 6,150,000	\$ 700,000
East Campus Assessed Value: \$18,960,000				
Newbury College - "West Campus" 3.13 acre site (136,157 square feet) Range of Land Value Scenarios and Associated Town Benefit				
Scenario	Unit Count	Estimated Value	NPV Stream of Tax Payments ¹	Affordable Contrib.
Educational User	N/A	\$ 17,700,000 ⁶	N/A	N/A
Town Acquisition	N/A	N/A	N/A	N/A
Cluster Residential Development ²	8	\$ 6,400,000	\$ 5,510,000	\$ 900,000
"As of Right" Residential Development ³	4	\$ 5,400,000	\$ 4,570,000	N/A
West Campus Assessed Value: \$14,800,000				
FOOTNOTES & ASSUMPTIONS				
¹ Net Present Value calculation applies discount rate of 3.0% to stream of inflation-adjusted future real estate tax payments (see footnote 5 for Welltower assumptions)				
² As of Right" Residential Development Zoning Requirements - S-15 zoning for residential as of right requires a minimum lot size of 15,000 SF and stipulates a maximum FAR of 0.25. - S-25 zoning for residential as of right requires a minimum lot size of 25,000 SF and stipulates a maximum FAR of 0.20.				
³ Cluster Residential Development Zoning Requirements - S-15 zoning for residential cluster requires a minimum lot size of 7,500 SF and stipulates a maximum FAR of 0.30. - S-25 zoning for residential cluster requires a minimum lot size of 12,500 SF and stipulates a maximum FAR of 0.25.				
⁴ Estimated provided by Byrne McKinney				
⁵ Estimated fiscal impact of Welltower project (approximate). - Assumes \$800,000 tax payment beginning at stabilized occupancy (3 years after Tax Certainty Agreement takes effect). - Increases 2.5% per year over 92 years. Smaller tax payments during three-year lease-up not considered. - Range reflects discount rates of 3.0% and 4% applied to stream of future inflation-adjusted real estate tax payments				
⁶ Estimate provided by McCall & Almy				
<i>This analysis is an opinion of value only based on a review of readily accessible publicly available information relating to the subject property. The opinion presented herein is based on our market and development experience and expertise and general conversations with knowledgeable real estate professionals. This opinion of value is further based on current market conditions, changes to which would likely impact the value ranges we present. We make no warranty or representation, expressed or implied, as to the accuracy of the information contained herein, and the same is submitted subject to errors, omissions.</i>				

These valuations were determined using the standard residual land value methodology¹¹ while factoring in the value of existing improvements (or the cost of their demolition).

¹¹ Residual land value looks at the present value of a development using industry standard discount rates and subtracts from that present value the total cost of construction (hard, soft, interest carry, etc.). The excess of the present value over the total cost of construction is the theoretical maximum value someone would pay for the land.

As shown above, McCall & Almy determined that the highest level of value for the East Campus would be the reuse of the 95,000 square feet of existing buildings (potentially adding additional space) by an educational non-profit. Educational non-profits that are exempt from both real estate taxes and zoning, except for reasonable dimensional controls, can pay more for real estate. Ms. McKinney attributed a value of \$18.9 million for the East Campus assuming this use, identical to its assessed value.

McCall & Almy valued the land in the range of \$7.9 to \$10.1 million under the existing residential zoning regime (with the variation attributable to development as single family on the low end and as cluster housing on the high end).

Commercial tax paying uses were determined to not be a good fit. The Town is currently awaiting state certification of its Subsidized Housing Inventory (SHI), which the Town asserts is now at 10%. It should be noted that the Town's SHI is expected to fluctuate over the next few years for a variety of reasons, but any property owner's recourse to 40B will be risky—the Town may very well be at 10% at the time of filing of a Comprehensive Permit so a developer may not claim the protections of 40B.

If an educational use remains the highest and best value, how was Welltower able to buy the property?

As stated above, the rules set forth by the Trustees of Newbury impacted the sale process. The Trustees valued a single purchaser and certainty of execution over price. That is not unusual in many institutional transactions. McCall & Almy believes, through their own research and discussions with the agent for the Trustees, that in addition to the Town and Welltower. Interested buyers were primarily educational institutions and other senior community developers. Those prospective buyers, however, apparently struggled with the requirement to purchase the entire property subject to existing zoning and may not have possessed the same resources as Welltower to ensure a closing that would meet the objectives of Newbury College.

As mentioned above, Welltower obtained an approximately 13% discount from assessed value, a value our consultants believe could have been realized if Newbury did not impose the aforementioned acquisition requirements on the market.

Did Brookline get as much from Welltower as it could?

One never knows if there is a little more to be obtained in a negotiation. It is, however, the view of the NZC that the Town has negotiated a fair deal for both parties and that Welltower is not receiving any windfall.

The NZC reached this conclusion by evaluating the facts of the transaction and by analyzing, with the help of its consultants, appropriate market information. Some of the key matters the NZC reviewed and/or concluded are:

1. The up-zoning will not create any value in the East Campus land beyond what Welltower has paid. Welltower provided its detailed senior living community development *pro forma*, including projected development costs and projected stabilized net operating income to Ms. McKinney for her review and evaluation¹². The allocated land value of \$17 million is the result of a residual land analysis and, based on comparable market data for other senior living developments, believed to be reasonable. That conclusion suggests that if Welltower, subsequent to the up zoning, were to sell the East side to another senior housing developer, that buyer would not value the land substantially greater than the \$17 million Welltower will have “invested” in at that time. Our consultants believe that if an up-zoning would create substantially greater value then the bidding for the property might have reflected that, even with the restrictions imposed by Newbury. On the other hand, if another purchaser used less ‘aspirational’ rent assumptions, they might offer less for the property.
2. If the up-zoning occurs but the Town does not buy the former West Campus, Welltower will be limited in the upside it can realize from the sale of that property. The Town negotiated a dual-option on the former West Campus. The Town can elect to purchase the property at the discounted price of \$14,800,000¹³ or the Town can share in the revenue when Welltower sells the former West Campus.
3. In presenting her market and financial analysis to the NZC, including her analysis of the financial and operational feasibility of the senior living community, Ms. McKinney characterized the Welltower *pro-forma* as carrying “aspirational” rents and “conservative” development costs. The development costs include demolition of existing facilities and the costly maintenance and adaptive re-use of the Mitton House. Ms. McKinney explained that while Welltower is proposing a high-end project, its operating margin is thin given the high costs of providing the services that the operations will entail. Citing the industry standard benchmark of stabilized Return on Cost (ROC), she concluded that the projected ROC for the Welltower project is less than 6.5%, and that was before the Town negotiated additional concessions. She believes that typical developments target a stabilized ROC of more than 6.5%.¹⁴
4. Additional concessions that have eroded Welltower’s returns were an increased commitment beyond what it was initially willing to pay for one of the inclusionary zoning alternatives and a reduction of the initial asking price for the former West Campus.

¹² As is generally normal practice when dealing with public companies or negotiated transactions, the details of the developer’s *pro forma* are subject to a non-disclosure agreement, with the specific exception in this instance for the inclusionary zoning amount and the land value attributed to the senior living project.

¹³ McCall & Almy estimates that the \$14.8 million purchase price represents a \$2.9 million discount from the \$17.7 million McCall & Almy believes a non-profit educational user would be willing to pay for the former West Campus. Colliers, the agent for Newbury, has appraised the former West Campus at \$18.55 million.

¹⁴ Welltower’s February 12, 2020 annual earnings press release stated that it had “completed \$308 million of development funding with an expected stabilized yield of 7.9%”.

If the Town has really pushed Welltower to such a thin ROC, why would they proceed?

Ms. McKinney's answer to this question at the public meeting was "The site is exceptionally rare and has an exceptional competitive edge over other options." Companies often make investments for strategic reasons. In this instance, Welltower may want to establish a presence in the Boston market with a premier property and they may be willing to accept lower returns to accomplish that goal.

Even if we have pushed Welltower to a subpar ROC, why can't we get more or even be given the property for free as some have suggested?

The adage 'Pigs get fat, hogs get slaughtered' is commonly used in the real estate industry. From afar, it seems like developers always 'win'. That is not reality because, as most banks will confirm, real estate development (and investment) is a very risky undertaking.¹⁵ Development requires the investment of considerable resources, financial and human, in the optimistic hope that a concept will be successful even though the results will not be known until many years in the future. The more appropriate question is, 'Why would any rational person, business or otherwise, do whatever a negotiating party wanted if it jeopardized the viability of a decision beyond an acceptable level of risk'?

Balfour at Brookline will not be successful and value will not be created just because it gets built. What must be understood is that the up-zoning is required for Welltower to be able to create the critical mass necessary to make a substantial investment to try and create a successful operation at the site. There is no assurance that Welltower and Balfour will succeed in the operating endeavor that is planned. Every dollar in value the Town obtains reduces the viability of the project because it adds to the cost of the project without adding any earning power.

As a public company, Welltower, its management and Board of Directors have legal and fiduciary obligations to their shareholders (which includes anyone who owns an S&P 500 index fund). It has been demonstrated that the projected returns on this project are thin and apparently below market and certainly below what Welltower has been able to achieve in recent developments.¹⁶

The SB and the NZC have determined, with the help of our expert advisors, that the economics of the proposed project are at the point where seeking additional concessions or payments to the Town is not economically reasonable. The choice is to agree with the proposal or to reject the deal and enter a new period of extreme uncertainty, and revenue

¹⁵ The last two major recessions in the United States were caused by real estate conditions (the savings & loan collapse and the housing crisis).

¹⁶ Welltower's February 12, 2020 annual earnings press release stated that it had "completed \$308 million of development funding with an expected stabilized yield of 7.9%".

stagnation (as it relates to the property). In making this decision, Town Meeting Members should understand and evaluate ‘what happens if we reject this deal’. The Select Board and the NZC have done that and do not believe there is a ‘what if’ scenario that is as, let alone more, favorable to the Town.

Why Aren’t We Just Saying No to This Whole Thing and Taking the Entire Property By Eminent Domain?

Eminent domain is an extremely risky and expensive undertaking that is widely misunderstood. It is the view of the Select Board and the NZC that a taking would result in the following:

1. An expensive initial award to the current owner that could be at least as large as the value attributed by Colliers in their appraisal conducted on behalf of Newbury (over \$40 million).
2. A lawsuit from Welltower that would challenge our right to acquire the land. Land may only be taken by eminent domain for a valid public purpose, and the current owner would likely claim that the taking failed to meet that standard. Even if the Town succeeded in this initial lawsuit, in the years it was pending, the land’s use would be limited, since long-term capital investment would be inadvisably risky. Further, the risk involved would cloud the title such that selling all or a piece of the land would be impossible.
3. A second lawsuit from the former owner challenging our valuation as insufficiently low. The former owner would argue that the appropriate value ascribed to the property would be, by law, the highest and best use of the property assuming zoning changes that could be reasonably anticipated to be approved. The former owner’s argument on valuation would not be limited by what previous consultants or assessors have said. It would likely be a number substantially higher than any value previously associated with the property. If the argument by some in the community that the up-zoning immediately creates value for Welltower in the amount of roughly \$170 million is correct, the Town could, conceivably, be required to pay that amount¹⁷.
4. The final outcome of that second lawsuit would not be known for many years and would be decided by a jury and not a judge. Juries in these matters traditionally bestow considerably higher valuation awards than judges.
5. A decision to take is binding and irrevocable. The initial award would have to be immediately available and payment must be made as soon as the decision to take is made. There will not be time to go to voters for a debt exclusion. This will result in a financing that will defer or possibly eliminate significant portions of the current CIP. Additionally, once the property is taken, the Town is obligated to pay however how much the valuation is determined to be. If the jury decided to

¹⁷ Neither the NZC, the Select Board nor the Town’s expert consultants believe the analysis that led to this perspective to be realistic or remotely close to the actual value of the property.

award the former owner a massive amount in additional damages, the Town would have no choice but to pay it.

The opportunity the Town will have to buy the former West Campus would advance municipal goals without the legal (and associated financial) risk of an eminent domain taking. If, as the NZC and our consultants believe, the value of the East Campus approximates what Welltower is valuing it at in its *pro forma*, then opting for an eminent domain taking would mean the Town would be taking on significant risk without a compelling reason to do so – especially if the contemplated goal were essentially what is contemplated by these warrant articles: upzoning the parcel to allow for additional development while retaining some of the land for municipal use at the lowest possible cost.

PLANNING BOARD REPORT AND RECOMMENDATION

Warrant Article Description

Article 9, sponsored by the Newbury Zoning Committee, is one of seven articles that comprise the Welltower/Newbury College package of warrant articles. It proposes to create a new overlay zoning district that would allow an applicant to develop a senior life-care facility (use 6A) provided that it complies with all of the requirements of the overlay district. The new overlay zoning district would be established over two of the parcels that comprise the “east side” of the former Newbury College campus, where the current owner, Welltower, is proposing to construct a 160-unit senior living facility¹⁸. The establishment of the overlay district over these parcels would not affect the underlying zoning district, which is S-15 and S-25 (single family districts).

The Fisher Hill Special Overlay District allows for a life-care facility exclusively, with no more than 160 units (all of which may be market-rate), and only on properties comprising at least three acres. Any developer that opts to develop the land pursuant to this overlay district would also be subject to the other requirements of the overlay district. The District sets forth requirements for open space (40%), parking (98 spaces of which 43 must be concealed), floor area ratio (1.15), setbacks, heights, and inclusionary zoning. The setback requirements vary significantly at different property lines, ranging from 35 feet along Fisher Avenue and Holland Road to 60 feet along the southern side and southern rear lot lines. The height requirements also vary significantly depending on the distance from property lines, from 70 feet for portions of the building within 55 feet of Fisher Avenue and Holland Road to 100 feet at the center of the property. The end result of these very specific dimensional requirements is a prescriptive overlay zoning district that has been crafted specifically to allow for Welltower’s proposed senior living facility with very little flexibility. Any development proposed pursuant to this overlay district will require site plan review, design review for compliance with design guidelines, a

¹⁸ The remaining parcel comprising the “east side”, 125 Holland Road, is the subject of Article 13

Transportation Access Plan Agreement, and an inclusionary zoning commitment. A Design Advisory Team under the purview of the Planning Board as well as ultimate approval by the Zoning Board of Appeals will be required to ensure compliance with the terms of the overlay zoning district.

Background

This warrant article is one of seven articles comprising the Welltower/Newbury College package submitted to Town Meeting by the Newbury Zoning Committee. The Newbury Zoning Committee was established in the fall of 2019 by the Select Board and charged with the responsibility of reviewing, analyzing, and proposing modifications to the redevelopment proposal presented by the proposed buyer and ultimate owner (Welltower) of the former Newbury College campus to construct a continuum-of-care facility on the “east side” of the property and to sell the “west side” of the property to the Town of Brookline for municipal and/or school uses.

By February 2020, the Newbury Zoning Committee and Welltower came to agreement on the scale, program, site plan, massing, and basic design of the proposed senior living facility. The facility would contain approximately 193,000 square feet and 160 market-rate units consisting of approximately 80 independent living units, approximately 40 assisted living units, and approximately 40 memory-care units. The design of the building underwent several iterations and review with the Newbury Zoning Committee’s Architectural Subcommittee, and design guidelines were drafted by the design team and reviewed by the Subcommittee. They will be further reviewed by the Planning Board prior to their adoption. This proposed zoning warrant article was drafted by members of the Welltower team with review by town officials and is intended to limit any developer to the specific project proposed by Welltower.

Zoning By-law Committee Recommendation

The Zoning By-law Committee held a Public Hearing to discuss Warrant Article 9 on May 13, 2020. The Committee discussed a few aspects of the proposed overlay zoning district, notably the maximum height allowance and the open space requirements. The Committee felt that the Planning Board should carefully consider the height requirements, which some members of the Committee felt were too permissive. The Committee was otherwise supportive of Article 9 and voted unanimously to recommend favorable action on the article.

PLANNING BOARD RECOMMENDATION

The Planning Board held a joint Public Hearing with the Select Board on May 12, 2020 where the sponsors of the Article gave a presentation and where the Planning Board and Select Board received comments from the public. The Planning Board continued the Public Hearing to May 20, 2020 where the Planning Board discussed the Article, asked questions of the Article’s sponsors, and solicited further public comment. Some time was devoted to examining how the height maximums were determined and the Board was

satisfied with the explanation, which included site sections showing the height difference between various building peaks and the district record grade. The Planning Board feels that the project architects have made significant improvements to the original design over the past year and commends the amount of design review and effort volunteered by the Newbury Zoning Architectural Subcommittee. Although further design work will be required, the Planning Board believes that the zoning proposed by Article 9 is sufficiently restrictive to respond to the neighborhood's concerns with setbacks and other impacts on abutting properties. The Planning Board expects that the final building will be a good fit for the Fisher Hill neighborhood.

Therefore, the Planning Board voted 4-0 to recommend favorable action on Warrant Article 9, the Fisher Hill Special Overlay District.

SELECT BOARD'S RECOMMENDATION

Warrant Articles Description

Articles 9-12, sponsored by the Newbury Zoning Committee, are four of the seven articles that comprise the Welltower/Newbury College package of warrant articles. Warrant Article 9 will create a new overlay zoning district that would allow an applicant to develop a senior life-care facility (use 6A) provided that it complies with all of the requirements of the overlay district. The new overlay zoning district would be established over two of the parcels that comprise the "east side" of the former Newbury College campus, where the current owner, Welltower, is proposing to construct a 160-unit senior living facility¹⁹. The establishment of the overlay district over these parcels would not affect the underlying zoning district, which is S-15 and S-25 (single family districts). Warrant Article 10 will authorize the Town to enter into a Tax Certainty Agreement guaranteeing that the project, once built, will provide a steadily positive fiscal impact to the Town regardless of a change in ownership or use. Warrant Article 11 will authorize the Select Board to enter to a Memorandum of Agreement with the developer securing agreed-upon benefits and mitigating impacts of the project. Warrant Article 12 will allow the Town to accept an easement along Fisher Avenue that will ensure the maintenance and protection of six large trees and a green area.

The Fisher Hill Special Overlay District allows for a life-care facility exclusively, with no more than 160 units (all of which may be market-rate), and only on properties comprising at least three acres. Any developer that opts to develop the land pursuant to this overlay district would also be subject to the other requirements of the overlay district. The District sets forth requirements for open space (40%), parking (98 spaces of which 43 must be concealed), floor area ratio (1.15), setbacks, heights, and inclusionary zoning. The setback requirements vary significantly at different property lines, ranging from 35

¹⁹ The remaining parcel comprising the "east side", 125 Holland Road, is the subject of Article 13

feet along Fisher Avenue and Holland Road to 60 feet along the southern side and southern rear lot lines. The height requirements also vary significantly depending on the distance from property lines, from 70 feet for portions of the building within 55 feet of Fisher Avenue and Holland Road to 100 feet at the center of the property. The end result of these very specific dimensional requirements is a prescriptive overlay zoning district that has been crafted specifically to allow for Welltower's proposed senior living facility with very little flexibility. Any development proposed pursuant to this overlay district will require site plan review, design review for compliance with design guidelines, a Transportation Access Plan Agreement, and an inclusionary zoning commitment. A Design Advisory Team under the purview of the Planning Board as well as ultimate approval by the Zoning Board of Appeals will be required to ensure compliance with the terms of the overlay zoning district.

Background

These warrant articles comprise the portion of the Welltower/Newbury College package submitted to Town Meeting by the Newbury Zoning Committee that speak to, for the most part, what the developer's obligations will be with respect to the property it will continue to own long-term. The Newbury Zoning Committee was established in the fall of 2019 by the Select Board and charged with the responsibility of reviewing, analyzing, and proposing modifications to the redevelopment proposal presented by the proposed buyer and ultimate owner (Welltower) of the former Newbury College campus to construct a continuum-of-care facility on the "east side" of the property and to sell the "west side" of the property to the Town of Brookline for municipal and/or school uses.

By February 2020, the Newbury Zoning Committee and Welltower came to agreement on the scale, program, site plan, massing, and basic design of the proposed senior living facility. The facility would contain approximately 193,000 square feet and 160 market-rate units consisting of approximately 80 independent living units, approximately 40 assisted living units, and approximately 40 memory-care units. The design of the building underwent several iterations and review with the Newbury Zoning Committee's Architectural Subcommittee, and design guidelines were drafted by the design team and reviewed by the Subcommittee. They will be further reviewed by the Planning Board prior to their adoption. This proposed zoning warrant article was drafted by members of the Welltower team with review by town officials and is intended to limit any developer to the specific project proposed by Welltower.

With respect to Article 11, the Select Board reviewed an updated version of the Memorandum of Agreement at its meeting on April 28, 2020. The bulk of the changes dealt with changes needed to accommodate the move from a May 2020 Annual Town Meeting to a June 2020 Annual Town Meeting – most relevant dates and deadlines shifted one month forward. In addition, changes to key dates were made to reflect that the override vote will no longer be on the June 9 local election ballot. With respect to the Town's option to acquire the West parcel (or share in the profit of its sale should the

Town elect not to purchase the West Parcel) the date to put the debt exclusion question on the ballot was extended to the fall to allow for ANY of the following:

- a September vote as part of the state primary on 9/1;
- a separate election to take place before the statutory deadline of 9/15 (the last day for an override that the Town can reference in a contingent appropriation at the Annual Town Meeting); OR
- the flexibility to place it on the ballot later in the fall, but no later than the Presidential election on November 3rd.

The Select Board felt that the changes allowed for much needed flexibility given the circumstances.

The Select Board feels that the proposed project is a use for the east side of the former Newbury College campus that, while more intense than what the underlying zoning allows, serves a need in the community without undue strain on the Town's public services and resources. In the trying times engendered by the current pandemic, the Select Board was encouraged by the developer's continued commitment to the project and notes that what was appealing about the project from a positive fiscal impact perspective in February of this year is even more so now. As will be discussed in the recommendations to Articles 13, 14 and 15, the Welltower project brings a series of substantial benefits to the Town memorialized in the Memorandum of Agreement the Town will be entering into assuming the warrant articles receive approval at Town Meeting.

Therefore, the Select Board voted 5-0 to recommend favorable action on Warrant Articles 9-12.

The Select Board motion under Article 9 is as follows:

VOTED: FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

Summary

Articles 9 through 15 constitute a package of articles which will guide the future of the former Newbury College Campus at the top of Fisher Hill. Eight months of negotiations with extensive public process have produced a 3 part package which includes (1) a proposal by Welltower, Inc. to build a senior living community on the east side of Fisher Ave, (2) two affordable housing alternatives (one on Fisher Hill and the other in Coolidge Corner), plus (3) an option to purchase the 3.13 acre portion of the campus on the west

side of Fisher Ave immediately adjacent to the new Fisher Hill Reservoir Park (or if the Town does not elect to exercise the option, a level of revenue sharing when sold by Welltower to another party). To achieve the benefits of the affordable housing and the option to purchase the west campus (or revenue sharing), Town Meeting must approve Articles 9-12 which relate to the proposed senior living community.

The Advisory Committee voted overwhelmingly to support the senior living project (Articles 9-12), the Colonel Floyd affordable housing option in Coolidge Corner and the option to purchase the west campus of Newbury College (Articles 14 and 15).

Background

After Newbury College closed, the Town was an active participant in the bidding process that the Newbury Trustees established for the sale of the campus. Welltower was the successful bidder and purchased the property in September 2019 without significant contingencies for \$34 Million. After the purchase, Welltower approached the Town to propose a Senior Living Community and a possible Town acquisition of the former West Campus. In response to this approach, the Select Board appointed the Newbury Zoning Committee (NZC) consisting of real estate professionals, many neighbors, 2 members of the Advisory Committee and 2 Select Board Members. The NZC held 10 public meetings plus 7 meetings of the Architectural Subcommittee and 8 meetings of the Negotiations Subcommittee. Warrant Articles 9-15 are the outcome of over 8 months of process and negotiations between the Town and Welltower with significant citizen and neighborhood input. The NZC unanimously voted on March 4, 2020 to support the Warrant Articles 9-15 and is the Petitioner.

The following 2 charts show the 3 distinct decisions that Town Meeting needs to make along with the warrant articles associated with each decision. The key point being that, in order for the Town to obtain the benefits of the affordable housing and the West Campus acquisition option, Town Meeting needs to approve Warrant Articles 9-12, which enable the senior living community.

Figure 1: Decision Process

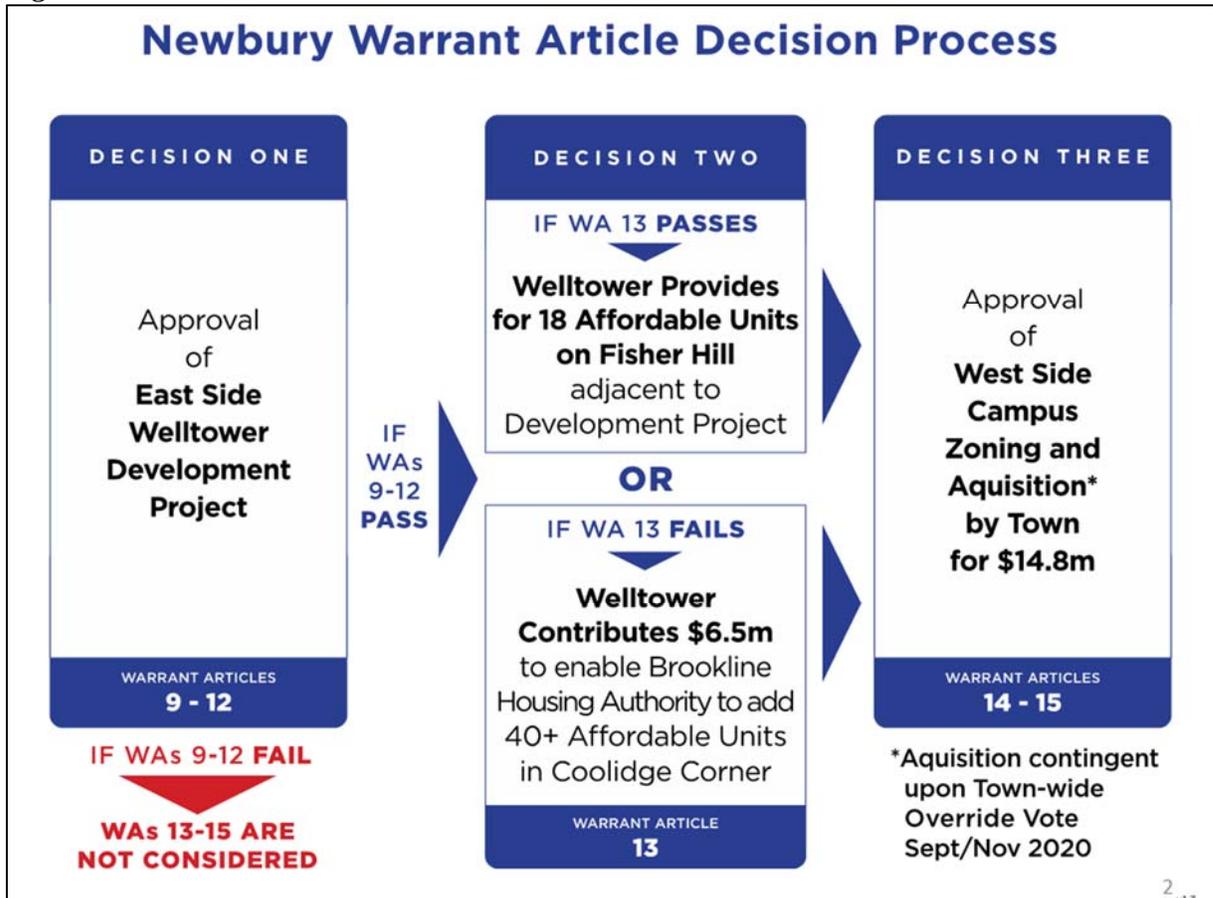


Figure 2: Warrant Article Groupings

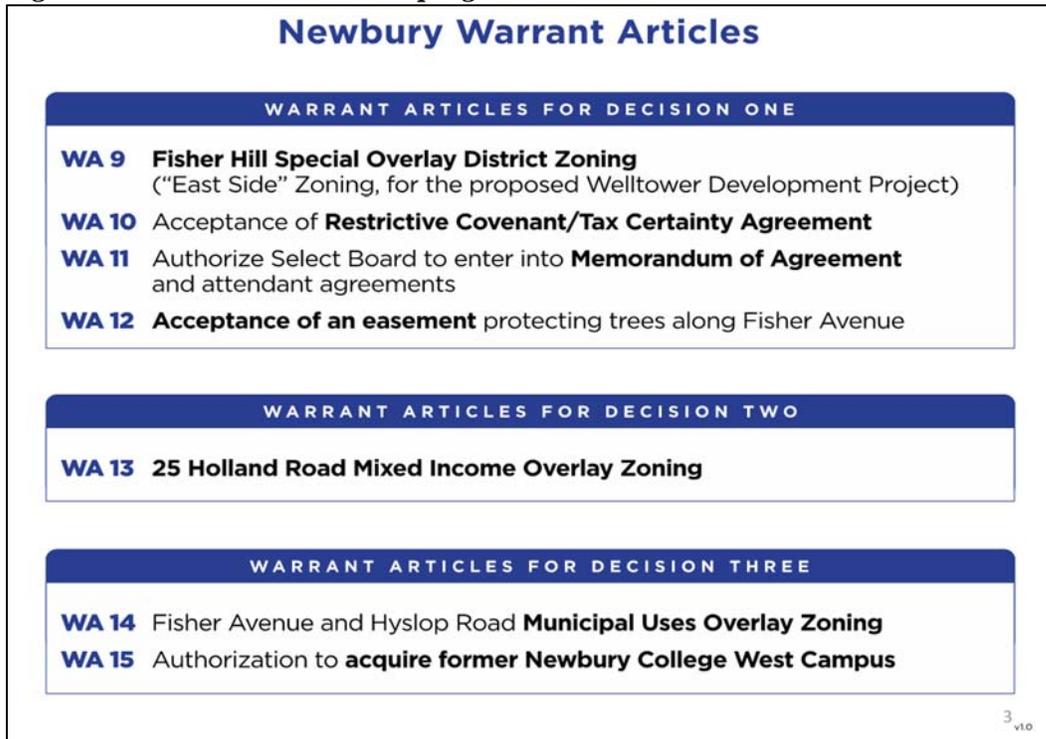
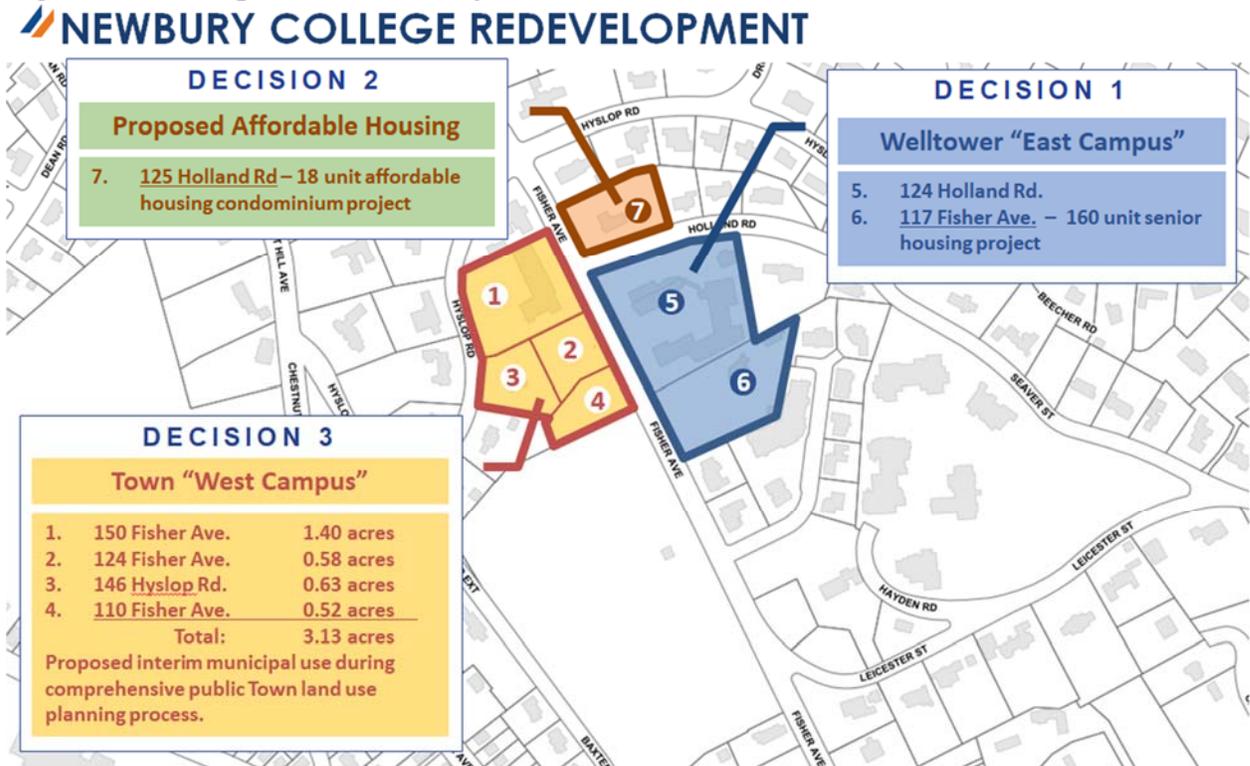


Figure 3: Site Map with Decision references



Decision 1: Articles 9-15 to Enable Building the East Campus Senior CommunityThe Proposed Project

Welltower, Inc. is proposing to build a Senior Living Community which will be operated by Balfour Senior Living on approximately 3.88 acres on the east side of Fisher Ave at Holland Road. Welltower Inc. is a real estate investment trust (REIT) that mostly invests in senior housing, assisted living and memory care communities, post-acute care facilities, and medical office buildings. It also owns hospitals and other healthcare properties outside the United States. Balfour Senior Living is based in the Denver, CO. area and operates a number of senior living communities in Colorado and Michigan. This will be their first community in the Boston Metropolitan Area. The project will be comprised of:

- An Approximate 193,000 square foot senior living community.
 - 1.15 FAR which is about twice that of the existing buildings on the site
- 160 luxury market rate senior rental units,
 - Approximately 80 independent living units
 - Approx. 40 assisted living units
 - Approx. 40 memory care units with no kitchens
 - Not included in inclusionary zoning requirement calculations
- 98 parking spaces, 43 of which will be concealed

Article 9 contains very prescriptive zoning and detailed design guidelines that have been developed by the NZC Architecture Committee and approved by the Planning Board. These design guidelines cover the materials, shapes, and how the buildings will look.

The zoning sunsets if the permitting process does not begin by December 31, 2020. While there is no specified required completion date for the project, if more than 24 months elapse from the date of the application for a special permit, the proposed zoning grants the Zoning Board of Appeals the right to deny the request for a special permit if it feels there has been excessive delay on the part of the developer.

The proposed site plan is follows:

Figure 4: Proposed Senior Living Community Site Plan



The architectural team is comprised of Robert A.M. Stern and Associates and Finegold Alexander Architects

Welltower has committed to preserving and adaptively reuse the Mitton House which is the most distinctive building on the existing campus. The buildings will follow many of the architectural traditions of Fisher Hill. A priority in the design is to achieve domestic scale and includes many special elements such as the roof scape, chimneys, etc. and two courtyards. For example, the ground floor has many residential elements; pergolas, columns and residential scale windows.

The lowest parts of the building are along the Holland Road and Fisher Avenue. The maximum height of 6 stories is achieved in the middle of the site, away from the abutting properties. The project will yield more open space and green space than actually exists right now.

The following sustainability commitments are memorialized in the Memorandum of Understanding:

1. As envisioned by the recently passed Article 21 of Fall 2019 Town Meeting (Prohibition on Fossil Fuel Infrastructure), no use of natural gas or fuel oil except for the commercial kitchens, emergency generator, and domestic hot water. We expect a limited exemption request for heating the water of an indoor pool.
2. LEED-NCv4 Gold Certifiable.
3. Developer will optimize the building for solar renewable energy measures and will consider photovoltaic and solar thermal where feasible.

4. To the extent feasible as reasonably determined by the Developer, it will implement so-called Passive House strategies to reduce energy use.
5. Implement Site Sustainable Measures which will include the following:
 - a. Storm water control measures that will optimize on-site filtration using rain gardens and bioswales.
 - b. Install native and drought tolerant plants. Incorporate bird friendly and pollinator plants.
 - c. Consider the use of permeable pavements such as permeable asphalt for driveways and parking areas, and permeable concrete pavers for the vehicular entry plaza, Holland Rd. Overlook, and other site features where feasible.
6. Existing trees along the street will be preserved and protected by an easement and will contribute to the image of buildings that have been there for a long time.

The following are a number of views which apply the proposed zoning and design guidelines:

Figure 5:

View from Holland Road



Mitton House

Figure 6:
View from Fisher Avenue and Holland Road



Figure 7:
View of Piazza Entry



Figure 8:
View from Fisher Avenue



Fiscal Benefits to the Town

Article 10 authorizes a Tax Certainty agreement for 95 years on the Welltower parcels which is intended to insure the payment of property taxes or its equivalent as a Payment in Lieu of Taxes (PILOT) if sold in the future to a tax exempt entity. A conservative estimate of property taxes at stabilized occupancy is \$800,000/year. This will grow over time as permitted by Proposition 2 ½. This translates to a Net Present Value of \$40 million to \$60 million (assuming 2.5% yearly growth, over 92 years, at 3-4% discount rates.) Additionally, building permit fees are estimated to be at least \$1.5 million and are projected to be realized in the fiscal year 2021/2022 timeframe. We do not expect the demand for services provided by the Town to be significant.

Project Outlook

Nikhil Chaudhri, Vice President, Investments for Welltower stated that despite the Covid-19 pandemic, Welltower continues to be committed to the project. Welltower has a very long term outlook and they see continued long term demand for the type of facility they are proposing. Notwithstanding, he noted that due to COVID-19, the supply chain for materials and labor has been significantly impacted, and there are added costs for cleanliness – all which will likely lengthen the timeline and increase costs. But it is still too early to fully evaluate the effects of the pandemic, as construction costs typically come down in an economic downturn while other costs may increase. Despite these issues, Welltower is well capitalized and the project remains financeable.

Lauren Donahue of the firm McCall and Almy has been the real estate and strategy advisor to the Town throughout the Newbury project. She stated that the outlook for projects such as this 3-5 years out is still optimistic and what they are seeing with their other clients echoes Welltower's reality.

Pam McKinney of the firm Byrne and McKinney has been the Town's financial advisor for this and a number of previous projects including Waldo Durgin and River Road. She was engaged by the Town to review the Welltower plans and internal financial statements against market standards and to advise on the feasibility of the project. Key market and financial conclusions from her analysis include:

Project Size – The unit counts, unit sizes and proposed amenity spaces are essential to the project's ability to attract the market and to its operational feasibility.

The proposed project is a small as it can be and still be viable.

Public Concessions- The project returns were below accepted market minimums prior to the Town negotiations and now, with additional agreements achieved with respect to affordable housing, RE taxes and the price of the West Side land, the expected project returns are even lower – razor thin.

The proposed project cannot support addition public costs and still be viable.

Ms. McKinney indicated that in her experience the “hurdle rate of return for projects of this sort, has been around 7%. A “hurdle rate” is the minimum anticipated return on investment that a developer would require to justify making the investment. She said that based upon her in camera review of confidential Welltower financial analyses relating to this project its projected rate of return is expected to be “well below 7%.” Note that McKinney's review of Welltower's financial statements was conducted pursuant to a nondisclosure agreement which does not permit disclosure of Welltower's internal projections.

Highlights of her analysis on the impact of Covid-19 include:

General Market Observations

- ❖ The senior housing markets are more sensitive to the recent COVID-19 pandemic than most, as the population is inherently more vulnerable and the recent news of outbreaks in senior living facilities has been both frightening and widely reported.
- ❖ While the need-based demand for and relative under-supply of this product (especially locally) provides optimism for the long-term, the senior living market is expected to be among the slowest to recover from COVID-19...second only to the hospitality/resort markets.

General Financial Observations

- ❖ **Revenues and occupancy** for existing projects are sure to decline, especially in the short-run, as facilities have stopped taking in new residents, and performance is likely to be affected in the mid-term as facilities are forced to offer marketing inducements to regain stabilized occupancy.
- ❖ **Operating costs** are sure to increase as protocols for ensuring resident health and safety produce both higher absolute costs and lower operating efficiencies – these changes are expected to be enduring.

- ❖ **Development costs**, especially the cost of labor and local materials may be lower in the short-term, offset by new construction site safety protocols, disruptions in overseas supply chains and much higher costs of capital and insurance. Mid- to long-term, cost impacts are uncertain, as it is unclear how quickly the new development markets will rebound and how new operating/safety protocols will impact on construction schedules and end-user space demand (more people staying at home – so less demand v. more SF needed per person – so more demand).

Specific Comments About the Welltower Development

- ❖ **Market Potentials/Revenues** – Demand continues to trend higher for need-based senior living product, and for the Welltower project the anticipated 3 to 5-year delivery/stabilization period is long enough to buoy optimism that the markets will have recovered sufficiently by then to generate a strong rent and occupancy response. Note that a well capitalized development sponsor and a superior facility manager will be essential to engendering necessary consumer confidence in the project.
- ❖ **Operating expenses** are likely to reset at higher levels in response to sustained changes to the senior living operating protocols as a result of COVID-19 and will necessitate even more attention to the achievement of operational efficiencies at the project. Note that the talent and creativity of an established operator like Balfour is essential to the success of the project.
- ❖ **Development costs** - Hopefully, when construction contracts are ultimately bid, the costs will be a bit lower than pre-COVID-19 conditions - providing an offset to the increased market risks and higher operating and capital costs resulting from COVID-19 referenced above. A deep-pocketed and experienced development sponsor like Welltower will be essential to the success of the project.

Decision 2: Article 13 - Inclusionary Zoning (Affordable Housing)

This discussion is relevant only if Articles 9 through 12 are approved. The Town's Inclusionary Zoning Bylaw requires 15% affordable units. While the Welltower project has 160 units, the 40 memory care units are not subject to the inclusionary zoning. That leaves 120 units subject to the Inclusionary Zoning Bylaw. The minimum number of affordable units is therefore 18. Providing the units on site is the preferred way to deliver these units under the Bylaw. The Newbury Zoning Committee agrees with the developer that 18 onsite affordable units are not financially feasible.

The Inclusionary Bylaw alternatives to onsite affordable units, including in order of preference:

- Offsite affordable units located as near as possible to proposed project

- Cash payment to Affordable Housing Trust

The Housing Advisory Board (HAB) has developed two recommended affordable housing options for Town Meeting consideration

Option A: Holland Road Zoning Overlay

- 18 affordable mixed-income condominium units
- Located on Holland Road directly across from main project
- Renovation of existing “Holland Hall” with new addition
- Welltower contribution includes
 - Land and building valued at \$3.027 million
 - \$3.123 million cash
 - \$650,000 contingent backup
- Welltower will contract with New Atlantic Development to design and produce the 18 affordable unit Holland Road project
- Requires Town Meeting approval of Article 13, Holland Road Zoning Overlay
- **Article 13:** The zoning overlay for 125 Holland Road would allow for an 18-unit mixed-income housing development providing:
 - 6 affordable units at 80% of AMI²⁰ (*Min of 4 by Special Permit with HAB support*)
 - 6 affordable units at 100% of AMI (*Min of 4 by Special Permit with HAB support*)
 - 6 affordable units at 150% of AMI (*Max of 10 by Special Permit with HAB support*)

New Atlantic is exploring two development options; (1) rehabbing the building or (2) tearing the building down and building completely new. A final decision has not been made and New Atlantic has indicated that it is open to a public process regarding this decision.

²⁰ Area Median Income

Figure 8: 125 Holland Road. Existing conditions and possible concept (Rehab)



Option B: BHA Contribution

- \$6.525 million Welltower cash payment to Brookline Affordable Housing Trust
- Earmarked to Brookline Housing Authority (BHA)
- All proceeds will be used to rebuild and expand BHA's Col. Floyd Apts.
 - Located on Marion Street near Coolidge Corner
 - All units are low-income senior rental housing
- Trust Funds will augment substantial other BHA subsidy sources to:
 - Demolish 60 obsolete senior walk-up apartments
 - Build 100+ new affordable units at 60% AMI in multistory elevator building(s)
 - 40+ net new affordable senior housing units
- No re-zoning required

If Article 13 is not approved, the zoning for the 125 Holland Rd. site (presently zoned for single family homes) will not be changed and the BHA contribution option will be the selected option.

A number of questions were posed to the Brookline Housing Authority and were answered by Mike Jacobs, Chair Brookline Housing Authority:

Q: There have been statements in social media to the effect that the Col. Floyd Senior Housing Project affordable housing effort could be accomplished without the \$6.525M infusion?

A: If the Housing Authority doesn't get these funds, this project will not happen. This would be an extremely large source of funding and sources this large do not become available too often. This is a unique opportunity to produce 40 net new units. The Housing Authority has a long waiting of eligible prospective tenants. Rehabilitating this project makes no sense for seniors, it needs to be rebuilt. This project currently has second floor walkup units that are inaccessible and utility systems that are inefficient.

Q: What is an estimate of the total cost of the Col. Floyd rebuild?

A: \$50M from a mixture of sources, tax exempt financing, tax credits which a bank would buy, and funding from State Department of Housing and Community Development.

Q: What happens if the Town authorizes the \$6.5 million, where do residents go during new construction?

A: BHA has 380 units within the Coolidge Corner area and would use those as "hotel" units. 6 buildings on the site and may be able to keep some occupied, during phased demolition and construction.

Q: To make Col Floyd property work the BHA needs to tie existing Sec 8 vouchers to the property. How many are needed to make the finances work?
BHA will use 30 of the approximately 1,000 existing vouchers for the project and that there will still be significant vouchers available for other Brookline residents.

Figure 9. Colonel Floyd Apartments existing conditions



Decision 3: Articles 14 & 15 - Acquisition & Rezoning of West Campus

This discussion is relevant only if Articles 9 through 12 are approved. The Town has been presented with an opportunity to acquire the West Campus of Newbury College. A

decision of Town Meeting to acquire the West Campus will need to go to the voters in the form of a debt exclusion which will occur either prior to September 15 (with a preference for the vote to be done concurrent with the September 1 state primary) or at the November 3 Presidential election. There are technical impediments to having the election on Sept. 1 which are being researched and worked through. A decision by the Select Board on the election date will need to be made soon after Town Meeting. If the Town does not hold an election on or before November 3, 2020, the option to acquire the West Campus will expire.

Article 15 authorizes the acquisition of the West Campus and associated bonding with an amendment to make it contingent on a successful debt exclusion vote. (Note: if the debt exclusion election is held after September 15, the bonding authorization will need to be voted again by Town Meeting in November.)

Article 14 creates a new overlay district with allowed municipal uses of (1) Municipal offices with associated support services, (2) Educational facilities, (3) Public libraries or museums (by Special Permit) and (4) Public recreational facilities (by Special Permit). Without this zoning change, the Town wouldn't be able to use the property after acquisition.

There are no changes to the dimensional requirements within the overlay. This means that any future expansions to the existing footprints will require a zoning change to be voted at a future Town Meeting.

The negotiated purchase price is \$14.8 Million. If Town Meeting approves acquisition with the debt exclusion contingency, the Select Board will place a debt exclusion of \$14.9 Million on the ballot. The extra \$100,000 is to cover minor capital improvements and closing costs.

Yearly debt service for a 3%, 25 year bond would be \$855,675.
 Yearly debt service for a 4%, 25 year bond would be \$953,778.

The annual cost impact to median taxpayer by property type:

Median Taxpayer Type	3% Bond	4% Bond
Single Family Home	\$49	\$54
Condominium	\$15	\$17
Commercial	\$112	\$124

If for whatever reason the Town does not acquire the West Campus, the Town has negotiated a profit sharing arrangement should the sale to a third party exceed the \$14.8

million price that the Town agreed to pay. The revenue sharing scale is in Appendix 1 and has been designed to provide an incentive to Welltower to sell for as high a sale price as possible. There will be no proceeds to Town if the sale is under \$14.8 million.

West Campus Description

The West Campus is 3.13 acres, consisting of 4 parcels with 2 buildings adjacent to the new Fisher Hill Reservoir Park. The Academic Center is an educational facility with 31,000 sf in good/move-in ready condition. West Hall contains 10,000 sf of classroom and administrative space and is in fair/average condition. West Hall is not in move in condition and would likely be mothballed until a long term use is determined. The West Campus also contains 3 parking lots with space for 150 cars. Photos of buildings on the West Campus follow:

Figure 10: Academic Center View from Fisher Ave.



Figure 11: Academic Center Rear with 1990's Library Addition



Figure 12 Academic Building Interior Photo



Figure 12 Academic Building Interior Photo



Figure 13: West Hall



Long Term Use of the West Campus

No permanent use of the West Campus has been determined given the short time frame in which the option to purchase will expire (by November 3, 2020) as compared to the long time frame a Town land use decision typically entails. The Select Board is committing to initiate a comprehensive planning process likely to span multiple years with the following structure:

1. Creation of a Land Use Committee-
 - a. Town Officials and Agencies, Neighbors and Residents. Supported by Experts
2. Public Input/ Community Engagement
 - a. (Public Hearings, Surveys, Possible Charrette)
3. Identification of Options
4. Public Dissemination and Input
5. Select Board Recommendation
6. Town Meeting Approval

The range of potential uses initially identified by the Select Board and the Town's recently completed Strategic Assets Plan (listed in alphabetical order):

1. Affordable Housing
2. Athletic Fields or Expanded Park Use
3. Building Dept. Workshop/Storage and Offices
4. Municipal/School Office Spaces and Training Center
5. Recreational Facilities (Pool, Rink, Gym)
6. Satellite Senior Citizen Space
7. School Classrooms or Educational Spaces

Short Term Use of the West Campus

In the short term (expected to last 2-5 years) it is likely that the only building to be used is the Academic Center. The current plans are as follows:

Basement: Building Department workshops.

The current space at Larz Anderson is substandard. Here, the plumbers, electricians, carpenters will each have separate work and storage spaces. The basement has sufficient storage space for proper organization of equipment and supplies. There is ample parking for the vans, pickup trucks, and SUV's used by the department. There will be no large trucks like those used by DPW.

First Floor: Municipal training/conference facility

There is insufficient space in Town Hall and other Town Building to meet the Training and conference needs of the Town and Schools.

Second Floor: Former classrooms could be converted to offices.

Discussion

Decision 1: Articles 9-12 - East Campus Senior Living Community

A number of questions and issues were raised during the Advisory Committee Planning and Regulation Subcommittee (P&R) hearing and the Full Advisory Committee discussion.

- After the unanimous Town Meeting vote to acquire the entire campus why didn't the Town just take the property using its eminent domain authority? Why doesn't the Town just buy the property for \$34 million as has been suggested by a number of Town Meeting members?

At the P&R hearing, Select Board member Nancy Heller stated that the Town considered but concluded that eminent domain is not an easy process and involves significant risk. Eminent domain is, perhaps, the most expensive way to acquire property especially in an adverse proceeding. The appraisal standard is highest and best use which, in all likelihood, higher than the market value. The Town also needs to have a compelling public use. The Town didn't have a previously determined public purpose or long term use unlike at the 111 Cypress St property. Investment or resale is not necessarily a legitimate public purpose for eminent domain purposes. There also wasn't an identified funding source to pay for a possible taking. There would be a litigation risk for pricing that would focus on dueling experts which would introduce significant upside pricing risks.

Lastly, the property isn't for sale. According to the Town's consultants, Welltower purchased the property at a discount given that they were able to close quickly, with cash and without significant contingencies. Welltower was not the low bidder for the property.

The bottom line here is that should the Town attempt to acquire the property in an adverse proceeding, the costs will be in all likelihood well in excess of \$34 million.

- Is there support in the community for the project?

The Fisher Hill Neighborhood Association voted overwhelmingly to support the project. At the P&R hearing, two abutters spoke in favor of the Welltower project. Other abutters have spoken in favor of the project at other public meetings.

- Where do the risks lie for the Town of Brookline going forward if we pass the Decision package 1? Where are those risk points and what are the Town's options?

There is a sunset in the zoning which limits the amount of time that Welltower has to proceed with the project; they can't drag their feet. A risk is that we pass the package and another developer with lower standards could take it over. This risk is mitigated

through the sunset, very proscriptive zoning and design guidelines plus a detailed Memorandum of Agreement which will be recorded with the Registry of Deeds.

- Residents on Fisher Hill have expressed concern about traffic during construction phase,

A construction management plan needs to be submitted and approved by Building Commissioner covering items such as dust and road control, which will be put in place before the project even starts.

A number of direct abutters have indicated support for the senior living community at the P&R subcommittee public hearing as has the Fisher Hill Neighborhood Association.

Advisory Committee Comments

- A persuasive case has been made to say yes to the first decision. It is a good project for the Town, for Fisher Hill; a low impact use. The Town needs the taxes and the services. The project package will benefit the Town over the long term, and the design will be a positive contribution to the neighborhood.
- This is a reasonable use of the property – the design fits in the neighborhood. The NZC has been able to modify the size and the way it looks so that is satisfactory to the neighborhood and the Town. We are lucky to have the team of architects that have been working with us. It is a very high end team and a very high end project.
- There is no reason to think that there would be an alternative that would be better for the neighborhood or the Town.
- If we let this go, we lose future taxes, we wouldn't get affordable units, and we wouldn't get an option on the West Side.
- This is very complex transaction – hard fought, well negotiated. All pieces in the articles hang together. Both sides negotiated in good faith, compromised and allowed the project to become what it is today. The Town has done its due diligence to reduce the project as much as it can and still be financially feasible.
- Welltower sees an opportunity to create a new product that can be showcased in other towns and locations. Producing a project with high quality and design will serve as a show piece for both Welltower and Balfour.

Decision 2: Article 13 - Affordable Housing Alternatives

Option A (Holland Road) was favored by the Housing Advisory Board by one vote. The HAB unanimously voted that both options would be good outcomes and entirely acceptable each in their own right.

Contrasting features of these options:

Option A:

- Proximity to main project,
- Geographic disbursement of affordable units around Town,

- Bylaw preference.
- Creation of 18 condominium units of mixed affordable (80% AMI) and workforce housing (100-150% AMI).

Option B:

- BHA serves a lower income range of beneficiaries,
- Project results in the replacement of 60 obsolete units with at least 100 modern units. This would yield 40+ net new units compared with 18 units at Holland Road.
- Location has multiple public transportation options.

Arguments for the Option A (Holland Rd) made by Planning Board Chair Steve Heiken:

1. This is not an either-or decision. Selection of the Holland Road option, does not preclude the Housing Authority (BHA) from redeveloping Colonel Floyd. However, if the BHA option is selected, it is very likely that the opportunity to create affordable housing (mixed-income homeownership) on Holland Road will be lost. The site will very likely be sold by Welltower and redeveloped as a large single-family home.

2. Redevelopment of Colonel Floyd was in the BHA's plans prior to Welltower, and will be several years away in any case. The BHA is in the process of renovating or redeveloping all six of its Federal developments under HUD's RAD program. Redevelopment of Colonel Floyd had been proposed as part of the third and last phase of redevelopment, after the in-place rehabs of O'Shea, Morse, Sussman, and Kickham. The O'Shea project is now nearly complete, and the Morse project at 86 Longwood is just getting underway. While the cash influx from the Welltower project might enable the BHA to move the project forward in its schedule, for many of these funding sources only one project at a time per developer is typically funded. So the Col. Floyd project may still need to wait several years before proceeding. Meanwhile, under the Holland Road option, the grant of the property and cash from Welltower would enable development to proceed without any additional public funding.

3. The Inclusionary Zoning Bylaw favors the creation of on-site development of affordable housing.

Where this is not feasible, as is the case here, the second preference is the creation of off-site units, preferably in the same neighborhood as the on-site development. The Holland Road site is a preferred option from this perspective, as it is in fact part of the overall Welltower site.

4. Comparison of the number of new affordable units to be created may not be as simple as 18 vs. 40. The BHA's plans for the redevelopment of Col. Floyd include "project-basing" 30 existing family-based (or "portable") Section 8 vouchers, out of the 40 total Section 8 vouchers used to support the new units in the redevelopment. Arguably, project-basing these 30 vouchers takes them out of the current market (but generally outside Brookline), meaning that in effect, only 10 new affordable units (statewide) are

being created – versus 18 at Holland Road. However, there would be 40 additional affordable units created in Brookline in a newly constructed elevator building.

5. By selecting the current BHA option, the Town is losing an opportunity to develop additional affordable housing on Fisher Hill – in this case affordable homeownership – in an area of town with little such housing.

Arguments for Option B: Brookline Housing Authority Earmarked for Col Floyd

A unanimous Advisory Committee found Option B attractive as there is an enormous need for deeply affordable housing for seniors. This option would create 100 modern units of which 60 will replace existing obsolete units and add at least 40 unit. The number of units improved or created makes this choice compelling.

Some members noted that the Holland Road site is a long walk from public transport while Col Floyd is more centrally located with a number of public transit options. Living without a car is more feasible at the Col Floyd site.

The notion that the Town can do both projects is dependent on the availability of this level of future municipal, state or federal resources. Some have suggested that a transfer tax or passage of the Community Preservation Act surcharge in Brookline could be a source of this level of future funds. Given what is happening with the economy and other future potential Proposition 2 ½ overrides, many Advisory Committee members believe that it is unlikely that the voters would be willing increase their taxes for this purpose. We now have a rare opportunity to leverage the \$6.525 million to the Affordable Housing Trust Fund to modernize 60 units and add at least 40 units.

On the other hand, there is already a concentration of affordable housing in the Coolidge Corner neighborhood. The BHA view is that this is a one-time chance vs the HAB view that this may not be an either/or choice. It may be unclear who has the right crystal ball but the Advisory Committee is siding with the BHA.

Decision 3: Articles 14 & 15 –Acquisition & Rezoning of West Campus

Even if Town Meeting votes to authorize the acquisition, the acquisition will not occur unless the funding is authorized by the Town’s voters subsequent to Town Meeting. The question before Town Meeting is whether to voters should be asked whether they are willing to accept a modest increase in their property taxes to take advantage of the opportunity to purchase over 3 acres on Fisher Hill.

The question will then be placed before the voters in the form of a debt exclusion question in either September or November.

While a permanent use has not yet been determined, it is clear that there are many uses for this property. The Town needs to take a long-term view and recognize that this is the opportunity to locate a needed municipal use here given everything we know that the Town needs. The Town will likely never be in a position to find property like this in the foreseeable future especially now the Boston College is taking over the now defunct Pine

Manor College. Purchasing and controlling the property is in the Town's long term strategic interest.

Regarding price, some have suggested that there has been a change in market conditions since the price negotiations were concluded. For a strategic buyer such as the Town, price is not always the most important factor. A strategic buyer is willing to accept lower returns for strategic value. We must also remember that the Town is a long term buyer more similar to Boston University than a developer. Even if the Town overpaid slightly, what is the significance? As is, the property tax impact of the debt service for the transaction, assuming a 4% interest rate for the debt, for a median single family homeowner, is \$54 a year. Even if we are paying 10% too much, the impact is just roughly an extra \$5 per year. We take note of the lengthy delicate negotiations that got us to this point, all the other issues before us plus the opportunity the property presents for the long term in recommending that the question be put before the Town's voters as is.

Lastly, some members are concerned about the timing of placing a debt exclusion question on the ballot given the economic effects of the current pandemic. While the timing of such a ballot question may not be ideal, this decision by the voters is time sensitive. The decision needs to be made by the voters on no later than November 3 at which point the option expires.

Assuming that Articles 9-12 have been approved by Town Meeting and if, for whatever reason, the Town does not purchase the property, the Town has negotiated a profit sharing arrangement for proceeds above the \$14.8 strike price when Welltower sells the West Campus to another buyer. This alternate outcome may provide some benefit to the Town though not as much as actually purchasing the property.

Recommendations

Decision 1: The Advisory Committee by a unanimous 27-0-1 vote recommends FAVORABLE ACTION on Warrant Articles 9-12 (voted together), encompassed in the following motions:

(Motions 10-12 can be found in their respective reports)

Decision 2: The Advisory Committee by a unanimous 0-27-1 vote recommends NO ACTION on Article 13, indicating support for the Col. Floyd project.

(See below for the full text of the motion)

Decision 3: For Warrant Article 14, the Advisory Committee by a unanimous 26-0-2 vote recommends FAVORABLE ACTION encompassed in the following motion:

(See the report under article 14 for the full text of the motions)

For Warrant Article 15, the Advisory Committee by a 23-3-2 vote recommends FAVORABLE ACTION on the following motion, which provides an appropriation of \$14.9 million to acquire the Newbury College West Campus contingent on the approval by Town voters of a debt exclusion vote:

(See below for the full text of the motions)

Article 15

MOVED: that the Select Board is hereby authorized to acquire, by purchase, gift, eminent domain or otherwise, in fee simple, the parcels of land located at 110 Fisher Avenue, 124 Fisher Avenue, 150 Fisher Avenue and 146 Hyslop Road (Tax Parcel Identification #s 255-01-01, 256-24-00, 256-21-23 and 256-20-00), which parcels of land constitute approximately 3.13 acres of land at the former Newbury College campus on the west side of Fisher Avenue, including all buildings and structures thereon and all privileges and appurtenances thereto belonging, as well as all trees and shrubs thereon, for general municipal purposes, and for all purposes and uses accessory thereto; that, in order to carry out this acquisition, the Town hereby appropriates Fourteen Million Nine Hundred Thousand Dollars (\$14,900,000) to pay the costs of acquiring approximately 3.13 acres of land at the former Newbury College campus on the west side of Fisher Avenue for general municipal purposes, including all costs incidental and related thereto, and such amount shall be expended under the direction of the Select Board; that to meet this appropriation the Treasurer with the approval of the Select Board is authorized to borrow said amount under Massachusetts General Laws Chapter 44, Section 7(1), or under any other enabling authority, and to issue bonds or notes of the Town therefor; that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Massachusetts General Laws Chapter 44, Section 20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount; and that the Select Board is authorized to apply for, accept and expend any grants that may be available to pay for any portion of this project, and the amount of any borrowing authorized pursuant to this vote shall be reduced by the amount of any such grants received by the Town; provided, however, that this vote is contingent upon the approval by Town voters of a ballot question to exclude the debt service on the borrowing authorized hereunder from the limits of Proposition 2 ½ pursuant to Massachusetts General Laws Chapter 59, Section 21C(k).

Land Description:

PARCEL I - Tract I (124 Fisher Avenue):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property

Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

- EASTERLY on Fisher Avenue, one hundred and fifty (150) feet;
- NORTHERLY on land now or formerly of Montrose Foundation, Inc., one hundred and sixty (160) feet;
- WESTERLY on lot marked "27,329 S.F." on said plan, one hundred eighty and 80/100 (180.80) feet;
- SOUTHEASTERLY on land now or formerly of the Sisters of the Holy Cross Inc., seventy seven and 15/100 (77.15) feet; and
- SOUTHERLY on the same, eighty-nine and 27/100 (89.27) feet.

Containing twenty-five thousand and eighty-nine (25,089) square feet of land, more or less, according to said plan.

PARCEL II - Tract II (146 Hyslop Road):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

- WESTERLY on Hyslop Road by two curved lines, one measuring eighty-one and 6/100 (81.06) feet, the other measuring thirty-eight and 68/100 (38.68) feet;
- NORTHERLY by two lines, one measuring thirty-five and 38/100 (35.38) feet, the other measuring one hundred (100) feet;
- EASTERLY by a line, one hundred and eighty and 80/100 (180.80) feet;
- SOUTHEASTERLY by a line, forty-eight and 30/100 (48.30) feet; and
- SOUTHWESTERLY on land now or formerly of Judith Sprague, one hundred eighty- two and 53/100 (182.53) feet.

Containing twenty-seven thousand three hundred twenty-nine (27,329) square feet of land, more or less, according to said plan.

PARCEL III (110 Fisher Avenue):

BEGINNING at the northeasterly corner of the granted premises at a stone bound set in the southwesterly sideline of Fisher Avenue as shown on a plan hereinafter mentioned;

SOUTH 26° 17' 50" EAST by Fisher Avenue 120.00 feet to a point at remaining land of the Commonwealth of Massachusetts; thence

SOUTH 63° 42' 10" WEST by said land of the Commonwealth of Massachusetts 357.80 feet to a point at land now or formerly of Frank R. and Etta P. Pratt; thence

NORTH 39° 28' 50" EAST by said land of Pratt 168.59 feet to a stone bound; thence

NORTH 39° 29' 50" EAST 86.35 feet to a stone bound; thence

NORTH 39° 48' 50" EAST 39.39 feet to a stone bound; thence

NORTH 64° 02' 30" EAST 89.29 feet to the bound first mentioned and the point of beginning.

Containing twenty-six thousand nine-hundred fifty-one (26,951) square feet and being shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Water Division, Land in Brookline to be conveyed to Sisters of the Holy Cross of Massachusetts, The Archbishop Cushing College," dated September 16, 1958, Harold J. Toole, Director of the Water Division and Chief Water Supply Engineer, recorded with said Registry in Book 3700, Page 525.

Excluding so much of the premises that was conveyed by deed from Newbury College, Inc. to Syroos Sanicoff and Ronni M. Sanicoff dated April 28, 2003 and recorded in Book 18778, Page 143, which included the following parcel of land:

A certain parcel of land, now known as and numbered 154 Hyslop Road in said Brookline, shown as Lot A on a plan dated October 10, 2002 and entitled "Subdivision Plan of Land in Brookline, Massachusetts, Norfolk County, I. F. Hennessey Co.", recorded with said Registry as Plan No. 264 of 2003 in Plan Book 507, containing four thousand three hundred and forty-seven (4,347) square feet(+/-) of land.

PARCEL IV (150 Fisher Avenue):

Tract I:

Lot B on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

June 23, 2020 Annual Town Meeting

9-60

Containing 32,625 square feet, according to said Plan.

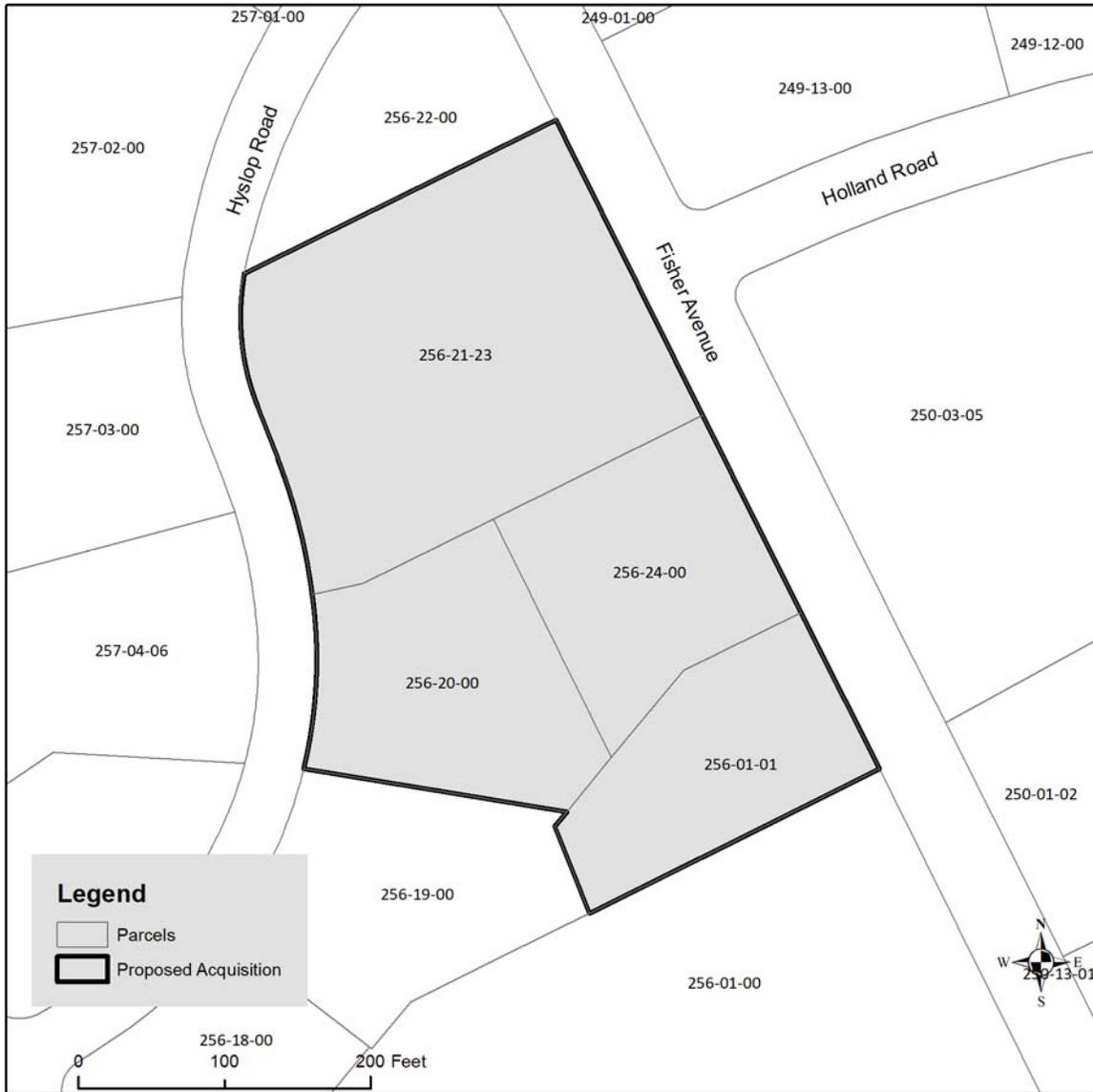
Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.

Tract II:

Lot A on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 28,510 feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.



Appendix 1: West Campus Profit Sharing Schedule:

Sale of West Parcel - Profit Sharing Framework					
Assume Sale Price of \$18,550,000*** (Colliers appraised value) and assume 2% cost of sale					
Assume Waterfall of Proceeds Sharing Above \$14,800,000 <i>net proceeds</i>					
Total Sale Price	Incremental Sale Proceeds	Incremental Welltower Proceeds		Incremental Town Proceeds	
		\$	%	\$	%
\$ 14,800,000	\$ 14,800,000	\$ 14,800,000	100%	\$ -	0%
\$ 15,800,000	\$ 1,000,000	\$ 371,000 *	0%	\$ 629,000	100%**
\$ 16,300,000	\$ 500,000	\$ 25,000	5%	\$ 475,000	95%
\$ 16,800,000	\$ 500,000	\$ 50,000	10%	\$ 450,000	90%
\$ 17,300,000	\$ 500,000	\$ 75,000	15%	\$ 425,000	85%
\$ 17,800,000	\$ 500,000	\$ 250,000	50%	\$ 250,000	50%
\$ 18,550,000	\$ 750,000	\$ 562,500	75%	\$ 187,500	25%
TOTAL:	\$ 18,550,000	\$ 16,133,500		\$ 2,416,500	

*NOTE 1: For the purpose of calculating cost of sale for this Exhibit, we assume a total sale price of \$18.55M is achieved. This figure is used for illustrative purposes only. Costs of sale will include all out of pocket costs incurred by Welltower in connection with the sale including, without limitation, brokerage commissions, all state and local transfer taxes, and attorneys' and consultants' fees and expenses that are customarily

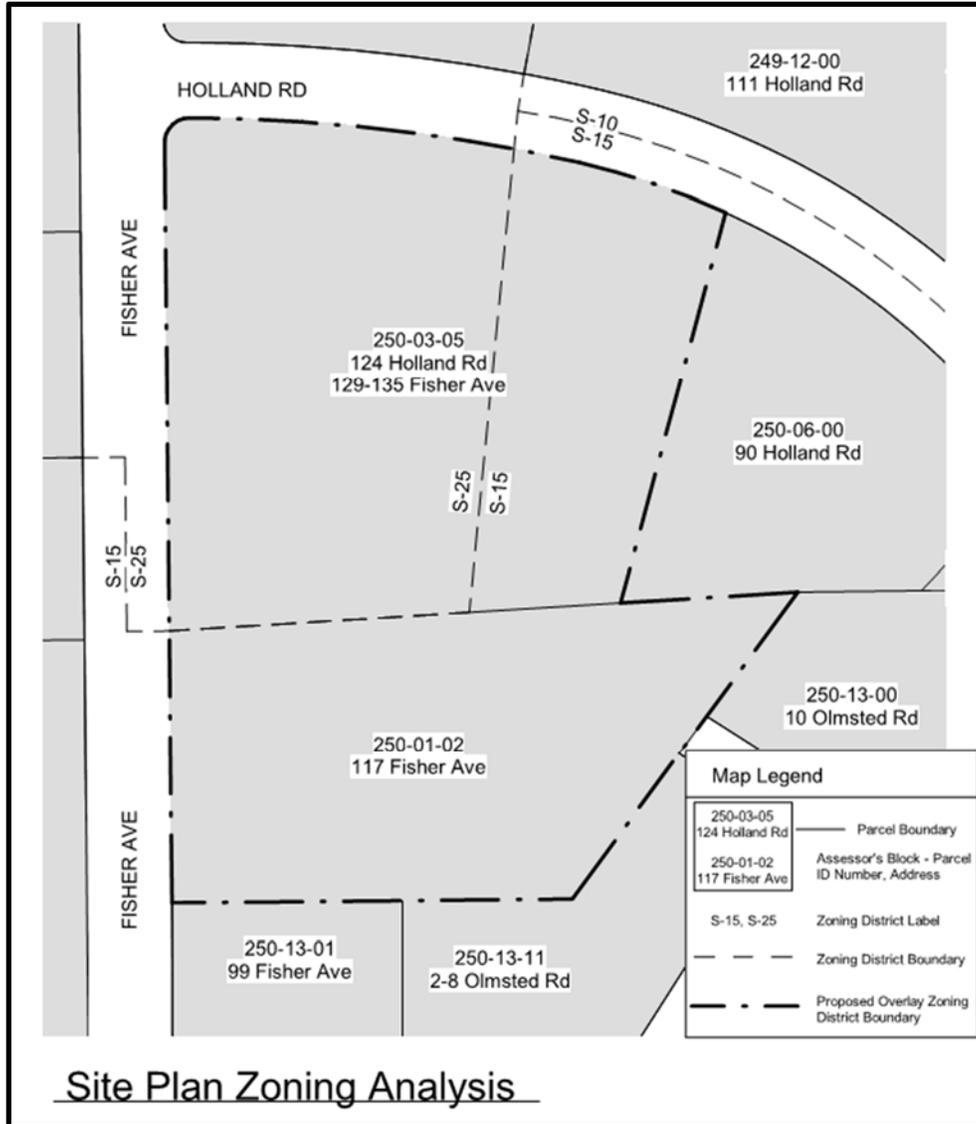
**NOTE 2: We assume the Town receives 100% of the initial \$1M in sale proceeds AFTER Welltower's cost of sale

***NOTE 3: Should Welltower achieve a sale price above \$18.55M the Town would propose to share in 10% of additional net proceeds

ADVISORY AOMMITTEE MOTION UNDER ARTICLE 9:

VOTED: That the Town will amend the Zoning By-Law and Zoning Map as follows:

1. By adopting the following map change, adding a Fisher Hill Special Overlay District as shown below, including: parcels with Tax Parcel Identifications 250-03-05 (124 Holland Road and 129-135 Fisher Avenue) and 250-01-02 (117 Fisher Avenue)



Avenue).

2. By amending Section 3.01.4 by adding a new item at the end:

“g. Fisher Hill Special Overlay District”

3. By amending Section 4.07 – Table of Use Regulations – to allow for life care facilities on lots less than 5 acres but greater than 3 acres in the overlay district, by adding a sentence at the end of the description of Use 6A in the Use Table, underlined below:

Use 6A, Life care facilities, incorporating independent apartment living units for elders combined with supportive medical, nursing or other shared facilities.

*Allowed by special permit only on lots greater than 5 acres, but within the Fisher Hill Special Overlay District, the minimum lot size shall be 3 acres.

- 4. By amending Section 5.01 – Table of Dimensional Requirements – by adding Footnote 22 after the words “Any other structure or principal use” in the rows for the S-25 and S-15 Districts, which Footnote 22 shall also be added at the end of the Table and read as follows:**

“22. See Section 5.06.4 – Special District Regulations, subsection l. Fisher Hill Special Overlay District with respect to uses and all dimensional requirements.”

- 5. By amending Section 5.06.4 – Special Districts – by adding a new item as follows:**

“l. Fisher Hill Special Overlay District

- 1) It has been determined through study of the former Newbury College campus that the potential exists for careful, planned redevelopment. It has further been determined that, due to the surrounding residential development pattern, and the municipal need for housing for an aging population, assisted living residential uses in a life care facility designed with a similar architectural character as the neighborhood are appropriate. Benefits to the community include maintenance for adaptive reuse of the Mitton House and creating a public easement along Fisher Avenue to preserve mature shade trees, and are significant reasons for why additional density may be allowed by Special Permit under the criteria of this section.*
- 2) At any point prior to December 31, 2020, an applicant may seek relief by Special Permit under this Overlay District by completing the Design Review preapplication process as set forth in Section 5.09 (3)(a)(2) provided the proposed project includes the following requirements and limitations:*
 - a. Includes a minimum of three acres of contiguous land.*

b. *Includes a life care facility with a maximum of 160 units as its primary use including all related accessory uses.*

3) *The Board of Appeals may grant a Special Permit under this section allowing for a project that meets the following requirements and limitations. Conformance with said requirements and limitations shall be made conditions of the Special Permit.*

c. *Open Space*

- i. *The project must dedicate a minimum of 40% of lot area towards Open Space. For the purposes of this requirement, Open Space shall include parts of a lot at ground level that are contiguous landscaped areas and walkways that include planted containers, landscaped beds, and/or street trees. Usable open space is not a requirement for this use.*
- ii. *The open space requirements of **Table 5.01 — Table of Dimensional Requirements** may be reduced in accordance with Site Plan Review as noted in **Section 5.06.4.1.4** below.*

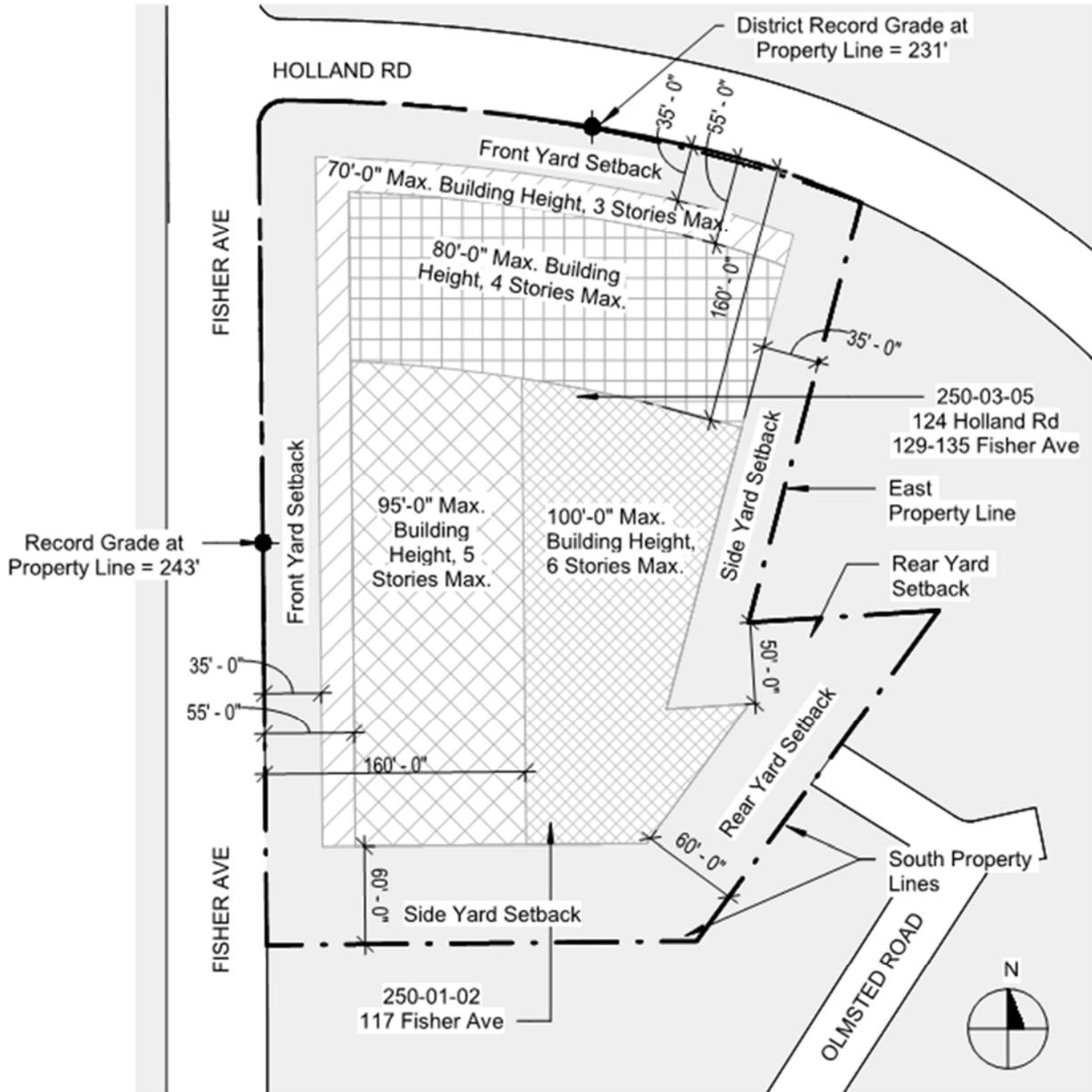
d. *Parking*

- i. *98 parking spaces shall be provided with a minimum of 43 concealed.*
- ii. *The number of parking spaces required per Article 6 of the Zoning By-Law may be reduced at the request of the applicant, following review of a parking study and favorable recommendation by the Planning Board.*
- iii. *Parking area setback along the southern lot line shall be no less than 20 feet.*
- iv. *The parking and drive requirements under Section 6.04, including stall width and depth, aisle width, and width of entrance and exit drives, may be modified in accordance with Site Plan Review as noted in Section 5.06.4.1.4 below.*
- v. *Once a minimum of five years have passed since the issuance of a Certificate of Occupancy for any project promulgated pursuant to a Special Permit granted under this Section, the holder of said Special Permit may seek modification of the Special Permit to allow the provision of fewer than 98 spaces, but only through a reduction in the number of non-concealed parking spaces and only upon a*

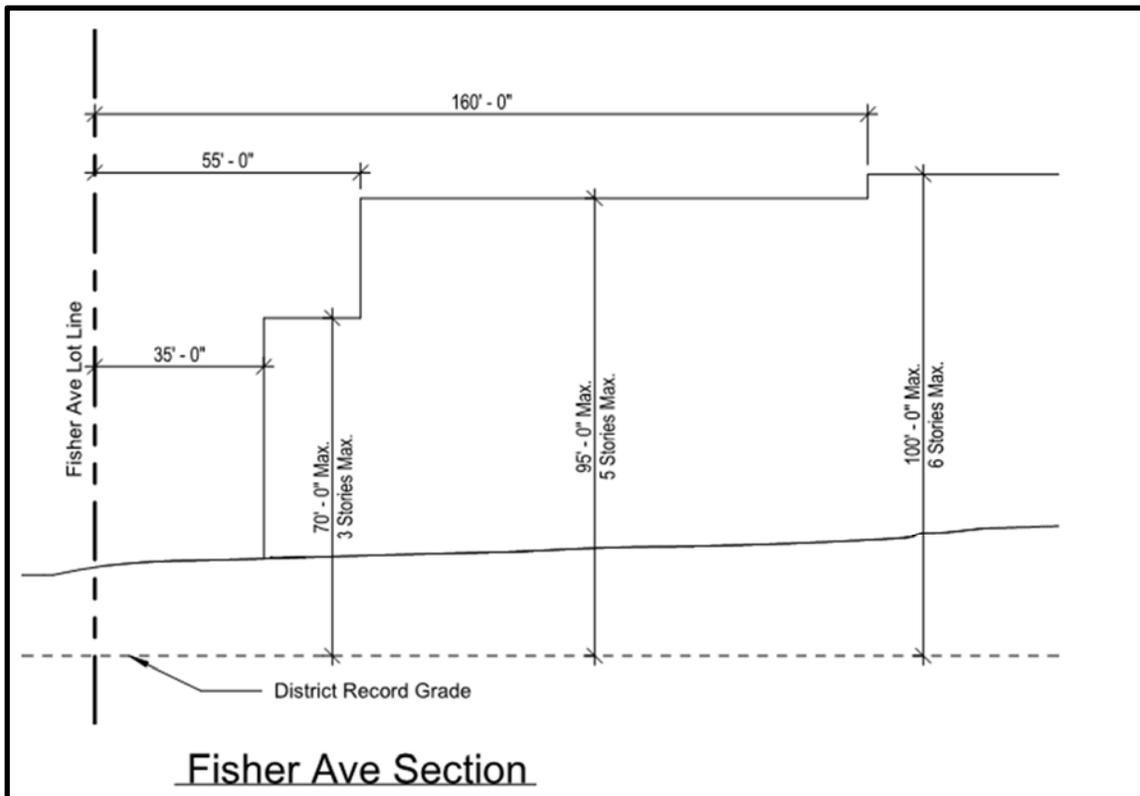
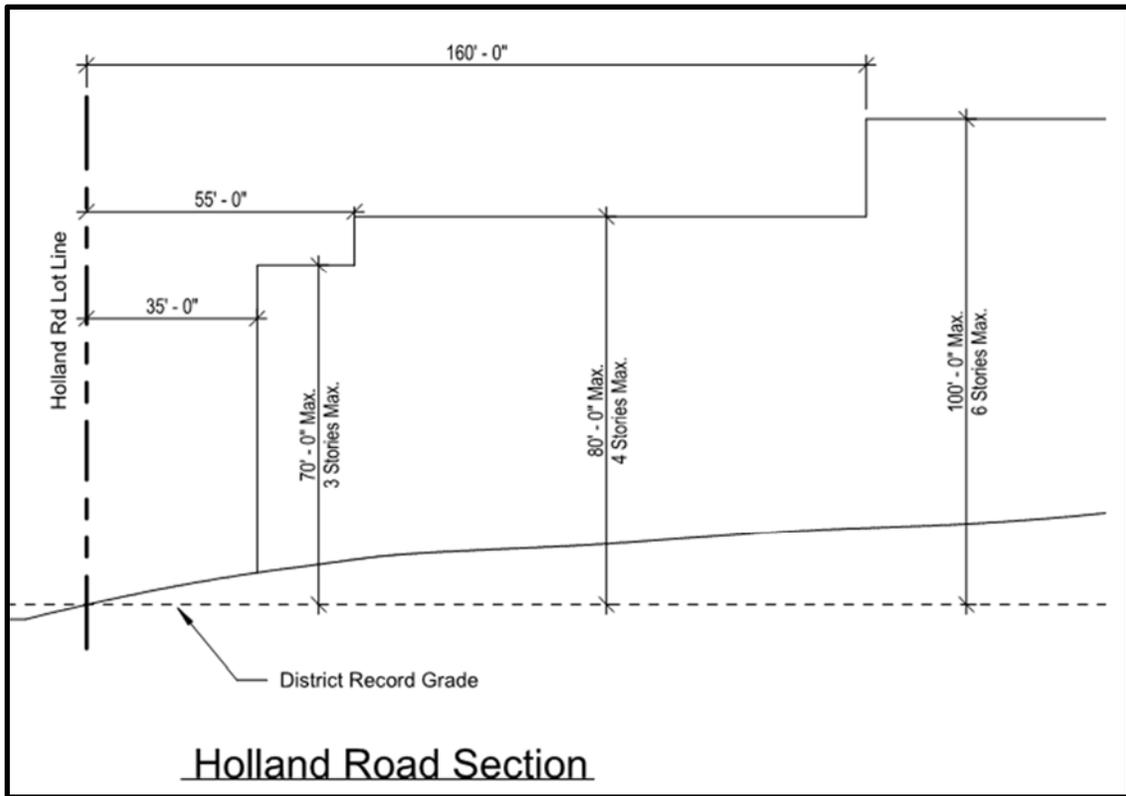
showing to the Zoning Board of Appeals that such a reduction will not impact the neighborhood.

- c. The Gross Floor Area Ratio for a project permitted pursuant to this section shall not exceed 1.15.*

- d. The maximum building height shall be 70' and three stories max. for portions of a building that are within 55' of Fisher Avenue and Holland Road. The maximum building height shall be 80' and four stories max. for portions of a building that are within 160' of Holland Road. The maximum building height shall be 95' and five stories max for portions of a building that are within 160' of Fisher Avenue. Otherwise, the maximum building height is 100' and six stories max. The maximum number of stories does not include basements or means of egress. These maximum building heights do not include rooftop structures such as elevator penthouses, chimneys, mechanical equipment, and mechanical screens. Building heights shall be measured from the District Record Grade rather than as prescribed in Section 5.30. The District Record Grade shall be the record grade of the Holland Road property line at the midpoint of the Holland Road boundary of the Fisher Hill Overlay District. Refer to Building Height and Setback Diagram. The Board of Appeals may grant a Special Permit for projections into front yards that do not comply with Section 5.51.*



Building Height & Setback Diagram



- e. The residential component of the project shall not include more than 160 living units. All 160 units may be market-rate.*
- f. Notwithstanding anything to the contrary in Section 4.08, for the purposes of satisfying the requirements of Section 4.08 the applicant may provide eighteen (18) affordable units off-site within 100 yards of the boundary line of this overlay district or make a cash payment not to exceed Six Million Five Hundred and Twenty Five Million Dollars (\$6,525,000).*
- g. Building setback requirements shall be as follows:*
From Fisher Avenue, no less than 35 feet;
From Holland Avenue, no less than 35 feet;
From east side lot line, no less than 35 feet;
From southern side and southern rear lot lines, no less than 60 feet;
From the rear lot line, no less than 50 feet.
Refer to Building Height and Setback Diagram.
- h. Accessory Structures allowed within the site setbacks include retaining walls, fencing, and utility equipment- ie generator and transformer. Setback for all structures is 6' min. from any lot line. Where required for emergency vehicle access, retaining walls and fencing can encroach on front yard setbacks.*
- i. Notwithstanding the provisions of Section 6.06.6, the number and size of required loading zones may be reduced in accordance with Site Plan Review as noted in Section 5.06.4.1.4 below. If the loading zone includes an area for trash and recycling this area for trash and recycling shall be enclosed. If the entire loading zone including the area for trash and recycling is fully enclosed, such area shall not count towards the project's total gross floor area.*
- j. Design Standards: During their review of all proposed building designs, both the Design Advisory Team and Planning Board shall consult the Fisher Hill Special District Design Guidelines*

developed by the Newbury Zoning Committee for guidance on general exterior massing, scale and design.

4) *Any application including new structures that seeks relief under this Overlay District shall:*

a. be subject to Site Plan Review by the Planning Board to ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian, bicycle and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish and recycling removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:

i. Demonstrated design compliance with any General By-Law related to erosion and sediment control and stormwater management;

ii. Property lines and physical features, including roads, driveways, parking for vehicles and bicycles, loading areas and trash storage for the project site; and

iii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, and exterior lighting.

- b. be deemed a Major Impact Project with respect to Section 5.09, Design Review.*
- c. include as a condition of the special permit a Transportation Access Plan Agreement (“TAPA”) approved by the Director of Transportation that includes Transportation Demand Management (“TDM”) programs.*

5) Allowing the additional density through the Special Permit contemplated by this Section has a potential benefit contemporaneous with its inclusion in the By-Law. However, planning objectives potentially achieved by this Section may not be met if substantial time elapses. Therefore, if upon closing the public hearing on the Special Permit contemplated herein, the Board of Appeals finds: (a) more than two years has elapsed since the opening of the public hearing; and (b) the amount of elapsed time is, in the discretion of the Board, excessive and contravenes the planning objectives of this Section, the Board may deny the request for a Special Permit.

6. By amending Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements – by adding a new footnote as follows:

“4. For the Fisher Hill Special Overlay District, parking requirements shall be no less than 0.5 space per unit. Section 6.02.2.h shall not apply”.

7. By amending Section 7.07 – Sign By-Law – Exceptions to the Above – by adding to Section 7.07.1 a new item at the end:

“f. The Board of Appeals may by special permit grant relief to the requirements of Section 7.01 for signage for the buildings in the Fisher Hill Special Overlay District subject, however, to compliance with the Design Review Procedures set forth in Section 7.08 and the Design Guidelines adopted for this district.”

...or act upon anything else relative thereto.

XXX

ARTICLE 10

TENTH ARTICLE

Submitted by: Paul Saner, on behalf of the Newbury Zoning Committee

To see if the Town will accept a Restrictive Covenant, entitled “IN RE: The parcels known as 117 Fisher Avenue (Assessors’ Parcel I.D. No. 250-01-02) and 124 Holland Road (Assessors’ Parcel I.D. No. 250-03-05) Brookline, Massachusetts Tax Certainty Agreement”, in substantially the same form as the draft attached hereto and included herewith as Exhibit A and incorporated herein by reference, from Welltower, Inc., a Delaware Corporation, their successors and assigns (hereinafter collectively referred to as “Welltower”) relative to the land and buildings owned by Welltower and commonly referred to as 117 Fisher Avenue and 124 Holland Road in Brookline, Massachusetts (hereinafter collectively referred to as the “Site”) all as further described in the legal description below; such Covenant will be upon such terms and conditions as the Select Board deems in the best interests of the Town with respect to the proposed development of the Site and will provide for the future tax certainty of the land and buildings thereon, and authorize the Select Board to enter into any necessary agreement(s) in furtherance of the purposes of the Restrictive Covenant with respect to the future tax certainty of the land and buildings as more specifically set forth in the Restrictive Covenant.

Legal Description of the Site:

PARCEL ONE (117 Fisher Avenue):

BEGINNING at a monument in the easterly line of Fisher Avenue, thirteen hundred six (1,306) feet from Boylston Street at the northwest corner of the land conveyed to the Inhabitants of the Town of Brookline by Horace N. and John H. Fisher, thence

NORTHEASTERLY: on said land at right angles with said Avenue, 264.02 feet to a monument; thence

NORTHERLY: on said land 250.76 feet to a monument at a point where the fence bounding said land as it now runs makes an angle; thence

SOUTHWESTERLY: by a straight line drawn 414.92 feet to a point in the easterly line of said Avenue 180 feet northerly from the point of beginning, and thence

SOUTHERLY: by the easterly line of said Avenue 180 feet to the point of beginning.

Or however otherwise bounded and described. Containing sixty-three thousand seven hundred and seventy-five (63,775) square feet, more or less, according to a plan made by Fuller and Whitney dated August 11, 1884, and recorded with the Norfolk County Registry of Deeds in Book 559, Page 392.

PARCEL TWO (124 Holland Road):

A certain parcel of land, with the improvements thereon, situated on Fisher Avenue, Brookline, Massachusetts, and shown as the lot marked "C" on a plan entitled "Plan of Land in Brookline, Mass." by E. Worthington, Engineer, dated July 15, 1926, recorded with Norfolk County Registry of Deeds, Book 1707, Page 513, bounded and described as follows:

NORTHERLY	by Holland Road by two measurements, 260.70 feet and 102.00 feet;
EASTERLY	by land now or formerly of Herbert T. Boardman shown as the lot marked "D" on said plan 267.37 feet;
SOUTHERLY	by Tract II herein, 298.18 feet;
WESTERLY	by Fisher Avenue, 323.75 feet;
NORTHWESTERLY	by the curve forming the southeast corner of said Holland Road and Fisher Avenue, 23.84 feet;

All as shown on said plan and containing 105,081 square feet of land, according to said plan.

OR ACT ON ANYTHING RELATIVE THERETO.

PETITIONER'S ARTICLE DESCRIPTION

This Article, if approved, will authorize the Select Board to enter into a Restrictive Covenant, entitled "Tax Certainty Agreement" and/or any related agreements. Once recorded, this Tax Certainty Agreement would run with the land and provide tax certainty for real estate taxes for a 95-year term pertaining to the proposed development at so-called "East Parcel" of the former Newbury College Campus – the parcels with the addresses 117 Fisher Avenue and 124 Holland Road in Brookline. The current proposed uses are a senior living facility, but future uses could potentially include ones exempt from taxation. Although no such use is currently contemplated, this Tax Certainty Agreement would ensure a full payment in lieu of taxes to the Town.

This warrant article is one of seven warrant articles related to Welltower's proposed development on the former Newbury College campus. For more information on how this warrant article fits into the larger package, please review the explanation for the warrant article titled "Fisher Hill Special Overlay District Zoning" proposing a rezoning of the east side of the former Newbury College campus.

TAX CERTAINTY AGREEMENT – March 5, 2020 version

**IN RE: The parcels known as 117 Fisher Avenue (Assessors' Parcel I.D. No. 250-01-02) and
124 Holland Road (Assessors' Parcel I.D. No. 250-03-05)
BROOKLINE, MASSACHUSETTS
TAX CERTAINTY AGREEMENT**

This Agreement between WELLTOWER INC. a Delaware corporation, having an office at 4500 Dorr Street, Toledo, Ohio 43615 (“Welltower”; Welltower and its successors and assigns in title or interest the Premises are hereinafter collectively referred to as “Developer”) and the Town of Brookline, a municipal corporation (“Town”), located in Norfolk County, Massachusetts and acting by and through its Select Board (the “Board”), (Developer and the Town being collectively referred to as the “Parties”) is executed this ___ day of _____, _____ (the “Execution Date”), and made effective upon the date this Agreement is recorded in the Norfolk County Registry of Deeds and Norfolk Registry District of the Land Court (the “Effective Date”), upon the mutual promises and obligations hereinafter set forth and additional consideration which the parties acknowledge is adequate and appropriate, upon the following terms and conditions:

PREAMBLE

WHEREAS, the Town through its comprehensive plan seeks to encourage the redevelopment of underutilized, vacant and/or abandoned buildings and land in the town and specifically at the former Newbury College site and to be assured that such redevelopment results in the improvements remaining as taxable properties within the Town to help protect the Town’s existing property tax revenue; and

WHEREAS, Welltower owns the parcels of real property known as and numbered as 117 Fisher Avenue (Parcel I.D. No. 250-01-02) and 124 Holland Road (Parcel I.D. No.250-03-05) sometimes collectively referred herein collectively as the “East Parcel”, which was acquired by Developer pursuant to that certain Quitclaim Deed dated September 5, 2019 recorded with the Norfolk Registry of Deeds (the “Registry”) in Book 37136, Page 283, the legal descriptions of which are attached hereto as Exhibit A, which as of the date hereof consists of a several buildings and a parking lot;

WHEREAS, Welltower, Welltower TRS Holdco LLC, a Delaware limited liability company and the Town are parties to that certain Memorandum of Agreement by and between the Town of Brookline and Welltower Inc. and Welltower TRS Holdco LLC, dated as of [____], 2020 and recorded in the Registry in Book [____], Page [____] (the “Memorandum of Agreement”); Capitalized terms used in this Agreement and not otherwise defined shall have their respective meanings as set forth in the Memorandum of Agreement;

WHEREAS, as of the Effective Date, each of the Town Meeting Approval Conditions and Special Permit and Other Required Approvals have occurred and/or have been satisfied;

WHEREAS, in accordance with and pursuant to the Memorandum of Agreement, Developer and the Town agree to execute this Agreement as of the date hereof and record a copy thereof in the Registry;

WHEREAS, the Town and Developer seek to confirm their shared commitment to keeping the Premises upon which the Project may be constructed as a taxable parcel notwithstanding that by virtue of its potential use, it may become exempt from the payment of real estate taxes as nontaxable real property under Massachusetts General Laws, Chapter 59, §5, Clause Third or other applicable exemption; and

WHEREAS, for the reasons stated above and pursuant to the terms of this Agreement, the Town and Developer have agreed that Developer to the Premises will make certain voluntary payments to the Town in certain circumstances in lieu of real estate taxes, as more particularly set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Developer and the Town agree as follows:

1. Developer Commitment to Voluntary Payment to the Town. Commencing with the first fiscal tax year following the Assessment Date, and ending ninety-five (95) years after the Effective Date of this Agreement (the “Term”), if and to the extent Developer is not otherwise obligated to pay real estate taxes for the Premises by virtue of the Premises being used for one or more Exempt Uses or Developer’s tax-exempt status (the “Payment Conditions”), then, with respect to any fiscal tax year for which the Payment Conditions are satisfied Developer shall make a direct financial contribution to the Town in the amount equal to the real property taxes that would otherwise have been levied by the Town for all or any portion of the Premises were the Premises not used for one or more Exempt Uses or were Developer not precluded, based on its status, from the payment of real estate taxes under applicable law in such relevant fiscal tax year (the “Voluntary Payment”). In such event, the Town shall accept the Voluntary Payment in full satisfaction of Developer’s obligations to make payments to the Town under this Agreement and/or applicable law (whether now in effect or, subject to Section 2, hereafter amended or adopted) on account of the Premises being used for an Exempt Use or Uses. As used herein the term “Assessment Date” shall mean January 1st or another date on which the Town Assessors by statute make the first determination of the value of real property following the Effective Date. As used herein the term “Exempt Use” or “Exempt Uses” shall mean those uses of real property that render such property eligible for exemption from real property taxation pursuant to Massachusetts General Laws Chapter 59, Section 5, Clause Third or other similar law, whether currently in existence or adopted during the Term of this Agreement.

2. Payment of the Voluntary Payment to the Town. The Voluntary Payment shall be paid to the Town in quarterly installments on the date real property taxes are due for each fiscal tax year during the Term for which the Payment Conditions are satisfied, and the Town shall provide Developer with a written statement of the portion of any Voluntary Payment due not less than thirty (30) days prior to the due date. Developer shall have the right to contest the amount of the Voluntary Payment on the basis of over valuation or disproportionate valuation

in comparison to similar properties, provided Developer shall, before commencing legal action, first use good faith efforts to mediate the issue of valuation with the Town's Assessors.

3. Termination of Agreement. The Town or Developer shall have the right to terminate this Agreement by, and effective upon, written notice of such termination delivered to the other in accordance with Section 8, in the event that, at any time after the Effective Date the federal or state laws, regulations, ordinances and/or other government requirements applicable to the payment by Developer of taxes, similar assessments or payments in lieu of such taxes on the Premises used for one or more Exempt Uses and/or any judicial or administrative interpretation of any of them (other than by the Town), change in any manner, the direct or indirect effect of which is to change the terms, conditions, and/or benefits of this Agreement in any way that is materially adverse to the Town or Developer, with the exception of a change that would have the effect of expanding the uses covered by the term "Exempt Uses". This Agreement shall not in any manner whatsoever restrict the Town's exercise of its police power. Upon transfer of title of the Premises, the grantor Developer's obligations under the Agreement shall automatically terminate and the grantee Developer (e.g., the successor owner of the Premises) shall be bound by the terms of this Agreement as more particularly described in Section 8(j) of this Agreement.

4. Period of Restrictions. It is the intent of the parties that the restrictions set forth herein be imposed for the duration of the Term, and Developer hereby agrees and acknowledges that (a) the restrictions set forth herein shall not be deemed to be "unlimited as to time" within the meaning of Massachusetts General Laws, Chapter 184, Section 23, (b) prior to the expiration of the initial thirty (30) years of the Term and prior to the expiration of any subsequent renewal period, this Agreement and the restrictions set forth herein may be renewed by the Town from time to time thereafter for additional periods not in excess of twenty (20) years each, such renewal to be effectuated in accordance with the provisions of Massachusetts General Laws, Chapter 184, Section 27 (as may be amended from time to time) or any successor statute.

5. Representations as to Authority.

i. The Town's Authority. As of the Execution Date, the Town represents that it is duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite municipal power and authority under the Town's Bylaws and under the laws of Massachusetts to execute, deliver, perform and be bound by this Agreement. The Town represents that (i) the individuals executing and delivering this Agreement on the Town's behalf are the incumbents of the offices stated under their names, and such offices have been duly authorized to do so by all necessary municipal action taken by and on the part of the Town, (ii) the Agreement has been duly and validly authorized, executed and delivered by the Town, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction, the Agreement constitutes the valid and binding obligation of the Town, enforceable against the Town in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against the Town, the Town agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

ii. Developer's Authority. As of the Execution Date, Developer represents that it is duly organized, validly existing and in good standing under the laws of the State of its

incorporation, that it is qualified to do business in, and in good standing under the laws of, the State of Massachusetts and that has all requisite power and authority to execute, deliver, perform and be bound by this Agreement. Developer represents that (i) the individual executing and delivering this Agreement on Developer's behalf has the authority to do so, and such signing authority has been authorized by all necessary corporate action taken by and on the part of Developer, (ii) the Agreement has been duly and validly authorized, executed and delivered by Developer, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction, the Agreement constitutes the valid and binding obligation of Developer, enforceable against Developer in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against Developer, Developer agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

6. Lien/Collection Remedies. Upon the failure of Developer to make any Voluntary Payment to the Town when the Payment Conditions were otherwise satisfied, the Town may take whatever action it deems feasible to collect said payment whether in law or equity. The parties agree that the Voluntary Payment may constitute a fee for collection proceedings and may constitute a lien on the property for collection purposes. Within no more than ten (10) days following written request from time to time to the Town Tax Collector, the Tax Collector shall provide Developer (e.g., the record owner of the Premises) with a written statement to Developer and any potential purchaser of or lender to the Premises certifying Developer's and the Town's compliance with this Agreement as of said date and otherwise stating any amounts due and payable and the amount of the Voluntary Payment.

7. Deed Reference and Affirmation of Successor In Title. Developer agrees that during the Term each successive deed of the Premises executed and delivered by the grantor shall contain the following statement:

“Reference is made to that certain Tax Certainty Agreement by and between Developer and the Town of Brookline dated _____, _____, recorded with Norfolk County Registry of Deeds in Book _____, Page _____ (together with all amendments duly made and recorded, the “Tax Certainty Agreement”). By acceptance and recording of this deed, the Grantee (i) acknowledges and accepts the Tax Certainty Agreement, (ii) acknowledges that Grantor is hereby released in full from all obligations of “Developer” under the Tax Certainty Agreement and (iii) agrees that the Tax Certainty Agreement shall be binding and enforceable against the Grantee in accordance with its terms.”

Developer and such successors in title shall notify the Town in the manner provided in Section 8(j) hereof of the conveyance of the Premises and shall provide the Town with a copy of the deed evidencing the same conforming to this Section 7.

8. Miscellaneous Provisions.

(a) **Notices.** All notices, consents, directions, approvals, waivers, submissions, requests and other communications under this Agreement shall be effective

only if made in writing with all delivery charges prepaid by a method set forth below, shall be effective at the times specified below, and shall be addressed to:

If to Developer:

Welltower Inc.
4500 Dorr Street
Toledo, OH 43615
Attention: General Counsel

With a copy to:

Jennifer Dopazo Gilbert, Esq.
Law Office of Robert L. Allen Jr., LLP
300 Washington Street
Brookline, MA 02445

If to the Town:

Town of Brookline
Attn: Town Administrator
Brookline Town Hall
333 Washington Street
Brookline, MA 02445

With a copy to:

Town of Brookline
Attn: Town Counsel
333 Washington Street
Brookline, MA 02445

___ By commercially recognized overnight or expedited commercial courier service, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the delivery receipt;

___ By hand delivery, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the messenger's receipt; or

___ By US certified or registered mail, return receipt requested, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the return receipt.

Any party may change or add to the addressees and/or addresses for notice by giving notice of such change or addition to the other party in accordance with this paragraph.

(b) Severability/Captions. The provisions of this Agreement are severable and, if any provision, or any portion thereof, is deemed by a court or arbitrator of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, the remaining

provisions, or remaining portions thereof, shall remain valid and enforceable to the fullest extent permitted by law, provided that (as determined by agreement of the parties or by a court or arbitrator of competent jurisdiction) such continuing validity and enforceability results in neither the loss of any material benefit to, nor the increase of any material burden on, either party or both of them, as such benefits and burdens are originally provided in this Agreement. If this Agreement is terminated or rendered of no effect due to the invalidity, illegality, or unenforceability of any of its provisions, those Developer obligations that otherwise would survive the Term shall end. The captions used in this Agreement are for convenience only and shall not be deemed to have any relevance to the meaning of any of the provisions.

(c) Waivers/Time of Essence. The provisions and any breach of this Agreement shall not be waived, except expressly in writing signed by the waiving party. A waiver on one occasion or of one provision or breach shall not constitute a waiver on another occasion or of another provision or breach. Time is of the essence of this Agreement.

(d) Amendments. This Agreement shall not be amended unless such amendment shall be expressly agreed in writing executed by duly authorized representatives both parties.

(e) Whole Agreement/Survival. This Agreement supersedes any previous negotiations or agreements between the parties to this Agreement, whether oral or in writing, in relation to the matters dealt with herein and represents the entire agreement between the parties in relation thereto. The provisions of this Agreement that, by their specific terms apply after the Term shall, except as provided in Sections 5 and 9, survive the Term for so long as applicable; and all of the provisions of this Section 9 shall also survive the Term in relation to any of this Agreement's other surviving provisions.

(f) Real Property. All references in this Agreement to real property or property owned by or of Developer shall be deemed to mean fee ownership of the Premises, including fixtures and/or improvements thereto and any use and/or occupancy of the Premises, including leases, which would affect the determination of whether the property is exempt or taxable by the Town.

(g) Reservations. The Town and Developer agree that this Agreement provides the Town with protection of its tax base, but nothing in this Agreement in any way restricts the Town's complete discretion in the exercise of its police power or imposes any restrictions on Developer's complete discretion to determine whether and how the Premises shall be developed and improved and the use of the Premises and whether the Premises shall be reserved for, converted to, or acquired for, one or more Exempt Uses and/or taxable purposes, taking into account economic conditions from time to time, relevant site constraints of development and any and all other considerations it desires. The Town and Developer each reserves all of its respective positions, rights and remedies at law and equity in connection with real estate taxes and exemptions in the event of the termination, expiration or inapplicability of this Agreement. Developer is entering into this Agreement voluntarily; and nothing in this Agreement or Developer's performance of its covenants hereunder shall be construed for any purposes whatsoever to constitute an acknowledgement by Developer of any regulatory, statutory or contractual obligation to make the Voluntary Payment or any other payment to the

Town on account of real property owned by Developer for Exempt Purposes, beyond the explicit contractual commitments voluntarily made by Developer under, and subject to all of the terms and conditions of, this Agreement.

(h) Counterparts. This Agreement may be executed by the parties hereto in multiple separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument of which there may be multiple originals.

(i) Applicable Law. This Agreement shall be governed by, and construed accordance with, the laws of The Commonwealth of Massachusetts for all purposes, without regard to any such laws governing choice of law.

(j) Successor In Title. This Agreement shall bind Developer and its successors and assigns in title to the Premises and shall be deemed to “run with the land” for the duration of the Term. Any Developer, as grantor of title to the Premises, shall be released from all obligations as “Developer” under this Agreement upon the execution by such Developer, and subsequent recordation in the Registry, of any deed transferring title of the Premises (a “Premises Deed”), which Premises Deed shall include the paragraph required pursuant paragraph 7 above. Simultaneously with the recording of a Premises Deed in the Registry, either grantor or grantee thereunder shall provide written notice to the Town of the recording of such Deed, the transfer of title to the Premises, and the notice addresses for grantee thereunder for purposes of notices under this Agreement, including, without limitation, Section 8(a).

(k) Recording. This Agreement shall be recorded at the Norfolk County Registry of Deeds and Norfolk Registry District of the Land Court.

IN WITNESS whereof the parties have executed this Agreement under seal as of the Effective Date.

Welltower Inc.

Town of Brookline
Select Board:

By _____

Hereunto duly authorized

Date: _____

Hereunto duly authorized
Date:

County of Lucas

State of Ohio

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ of Welltower Inc. as _____ of _____ through satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose..

Notary Public

Personally Known _____
Produced Identification _____
Expires: _____
Type of Identification _____

My Commission

Exhibit A

PARCEL ONE (117 Fisher Avenue):

BEGINNING at a monument in the easterly line of Fisher Avenue, thirteen hundred six (1,306) feet from Boylston Street at the northwest corner of the land conveyed to the Inhabitants of the Town of Brookline by Horace N. and John H. Fisher, thence

NORTHEASTERLY: on said land at right angles with said Avenue, 264.02 feet to a monument; thence

NORTHERLY: on said land 250.76 feet to a monument at a point where the fence bounding said land as it now runs makes an angle; thence

SOUTHWESTERLY: by a straight line drawn 414.92 feet to a point in the easterly line of said Avenue 180 feet northerly from the point of beginning, and thence

SOUTHERLY: by the easterly line of said Avenue 180 feet to the point of beginning.

Or however otherwise bounded and described. Containing sixty-three thousand seven hundred and seventy-five (63,775) square feet, more or less, according to a plan made by Fuller and Whitney dated August 11, 1884, and recorded with the Norfolk County Registry of Deeds in Book 559, Page 392.

PARCEL TWO (124 Holland Road):

A certain parcel of land, with the improvements thereon, situated on Fisher Avenue, Brookline, Massachusetts, and shown as the lot marked "C" on a plan entitled "Plan of Land in Brookline, Mass." by E. Worthington, Engineer, dated July 15, 1926, recorded with Norfolk County Registry of Deeds, Book 1707, Page 513, bounded and described as follows:

NORTHERLY by Holland Road by two measurements, 260.70 feet and 102.00 feet;

EASTERLY by land now or formerly of Herbert T. Boardman shown as the lot marked "D" on said plan 267.37 feet;

SOUTHERLY by Tract II herein, 298.18 feet;
WESTERLY by Fisher Avenue, 323.75 feet;
NORTHWESTERLY by the curve forming the southeast corner of said Holland
Road and Fisher Avenue, 23.84 feet;

All as shown on said plan and containing 105,081 square feet of land, according to said plan.

SELECT BOARD'S RECOMMENDATION

Please see the Board's report for this article presented under Article 9. A unanimous Select Board voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

Please see the summary on this article provided under Article 9. The Advisory Committee by a unanimous 27-0-1 vote recommends FAVORABLE ACTION the following motion:

VOTED: the Town will accept a Restrictive Covenant, entitled "IN RE: The parcels known as 117 Fisher Avenue (Assessors' Parcel I.D. No. 250-01-02) and 124 Holland Road (Assessors' Parcel I.D. No. 250-03-05) Brookline, Massachusetts Tax Certainty Agreement", in substantially the same form as the draft attached hereto and included herewith as Exhibit A and incorporated herein by reference, from Welltower, Inc., a Delaware Corporation, their successors and assigns (hereinafter collectively referred to as "Welltower") relative to the land and buildings owned by Welltower and commonly referred to as 117 Fisher Avenue and 124 Holland Road in Brookline, Massachusetts (hereinafter collectively referred to as the "Site") all as further described in the legal description below; such Covenant will be upon such terms and conditions as the Select Board deems in the best interests of the Town with respect to the proposed development of the Site and will provide for the future tax certainty of the land and buildings thereon, and authorize the Select Board to enter into any necessary agreement(s) in furtherance of the purposes of the Restrictive Covenant with respect to the future tax certainty of the land and buildings as more specifically set forth in the Restrictive Covenant.

Legal Description of the Site:

PARCEL ONE (117 Fisher Avenue):

BEGINNING at a monument in the easterly line of Fisher Avenue, thirteen hundred six (1,306) feet from Boylston Street at the northwest corner of the land conveyed to the Inhabitants of the Town of Brookline by Horace N. and John H. Fisher, thence

NORTHEASTERLY: on said land at right angles with said Avenue, 264.02 feet to a monument; thence

NORTHERLY: on said land 250.76 feet to a monument at a point where the fence bounding said land as it now runs makes an angle; thence

SOUTHWESTERLY: by a straight line drawn 414.92 feet to a point in the easterly line of said Avenue 180 feet northerly from the point of beginning, and thence

SOUTHERLY: by the easterly line of said Avenue 180 feet to the point of beginning.

Or however otherwise bounded and described. Containing sixty-three thousand seven hundred and seventy-five (63,775) square feet, more or less, according to a plan made by Fuller and Whitney dated August 11, 1884, and recorded with the Norfolk County Registry of Deeds in Book 559, Page 392.

PARCEL TWO (124 Holland Road):

A certain parcel of land, with the improvements thereon, situated on Fisher Avenue, Brookline, Massachusetts, and shown as the lot marked "C" on a plan entitled "Plan of Land in Brookline, Mass." by E. Worthington, Engineer, dated July 15, 1926, recorded with Norfolk County Registry of Deeds, Book 1707, Page 513, bounded and described as follows:

NORTHERLY by Holland Road by two measurements, 260.70 feet and 102.00 feet;

EASTERLY by land now or formerly of Herbert T. Boardman shown as the lot marked "D" on said plan 267.37 feet;

SOUTHERLY by Tract II herein, 298.18 feet;

May 19, 2020 Annual Town Meeting

x-16

WESTERLY by Fisher Avenue, 323.75 feet;

NORTHWESTERLY by the curve forming the southeast corner of said Holland Road and Fisher Avenue, 23.84 feet;

All as shown on said plan and containing 105,081 square feet of land, according to said plan.

XXX

ARTICLE 11ELEVENTH ARTICLE

Submitted by: Paul Saner, on behalf of the Newbury Zoning Committee

To see if the Town will authorize the Select Board to enter into any necessary agreement(s) and/or amendments to existing agreements or other action(s) required to carry out the terms and conditions set forth in that certain Memorandum of Agreement and related Tax Certainty Agreement, between the Town of Brookline (hereinafter referred to as the “Town”) and Welltower Inc., and Welltower TRS Holdco LLC, their successors and assigns (hereinafter collectively referred to as “Welltower”). Welltower owns the parcels of land formerly occupied by Newbury College and commonly referred to as 117 Fisher Avenue and 124 Holland Avenue (said properties being sometimes referred to herein as the “East Parcel”); 110 Fisher Avenue, 150 Fisher Avenue, 146 Hyslop Road (a/k/a 129 Fisher Avenue) and 124 Fisher Avenue (said properties being collectively referred to as the “West Parcel”); and (ii) 125 Holland Road (“125 Holland”). Welltower intends to construct a senior living community on the East Parcel including 160 units, of which 80 will be independent living, 40 will be assisted living and 40 will be memory care (hereinafter referred to as the “Project”); as further described below, said Memorandum of Agreement to include the following terms at a minimum:

- 1) Offering the West Parcel for sale to the Town for \$14.8 million;
- 2) Providing two separate means for meeting the inclusionary zoning requirements imposed by the planned overlay district on the Project: (i) transferring the 125 Holland Road parcel to a qualified developer along with \$3.123 million in cash to allow for the construction of 18 affordable condominium units; or (ii) making a \$6.525 million payment in the Town’s Affordable Housing Trust Fund;
- 3) Requiring Welltower to not object to certain conditions of the Special Permits related to the Project, including:
 - a) Sustainability commitments, including a commitment not to use natural gas or fuel oil except for the commercial kitchen, emergency generator, domestic hot water, and indoor swimming pool, and to construct the Project in a manner so as to be LEED-NCv4 Gold Certifiable;
 - b) Partnership with the Council on Aging or Brookline CAN on programming and events as well as a commitment to a yearly contribution to the Senior Center;
 - c) Additional commitments to sustainable design elements;
 - d) Historic documentation of the East Parcel buildings;
 - e) The provision of a Public Easement Area along Fisher Avenue and a commitment to maintain the existing trees within said Public Easement Area;
 - h) Maintenance and adaptive re-use of the Mitton House on the East Parcel into the Project;

- i) Relocation of a Fisher Avenue crosswalk.
- j) Job fairs and internship opportunities targeted to Brookline residents
- 4) Providing a 95-year Tax Certainty Agreement on the East Parcel which shall be a restrictive covenant;
- 5) Requiring that the agreement(s) be recorded in the chain of title; and upon any further terms and conditions that the Board deems in the best interest of the Town with respect to the proposed development of the said Site; and
- 6) Other terms and conditions that the Select Board deems in the best interest of the Town.

The legal descriptions of the parcels for the Site are as follows:

EAST PARCEL

PARCEL ONE (117 Fisher Avenue):

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NORTHEASTERLY: on said land at right angles with said Avenue, 264.02 feet to a monument; thence

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SOUTHWESTERLY: by a straight line drawn 414.92 feet to a point in the easterly line of said Avenue 180 feet northerly from the point of beginning, and thence

SOUTHERLY: by the easterly line of said Avenue 180 feet to the point of beginning.

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- EASTERLY by land now or formerly of Herbert T. Boardman shown as the lot marked "D" on said plan 267.37 feet;
- SOUTHERLY by Tract II herein, 298.18 feet;
- WESTERLY by Fisher Avenue, 323.75 feet;
- NORTHWESTERLY by the curve forming the southeast corner of said Holland Road and Fisher Avenue, 23.84 feet;

All as shown on said plan and containing 105,081 square feet of land, according to said plan.

WEST PARCEL

PARCEL I - Tract I (124 Fisher Avenue):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

- EASTERLY on Fisher Avenue, one hundred and fifty (150) feet;
- NORTHERLY on land now or formerly of Montrose Foundation, Inc., one hundred and sixty (160) feet;
- WESTERLY on lot marked "27,329 S.F." on said plan, one hundred eighty and 80/100 (180.80) feet;
- SOUTHEASTERLY on land now or formerly of the Sisters of the Holy Cross Inc., seventy seven and 15/100 (77.15) feet; and
- SOUTHERLY on the same, eighty-nine and 27/100 (89.27) feet.

Containing twenty-five thousand and eighty-nine (25,089) square feet of land, more or less, according to said plan.

PARCEL II - Tract II (146 Hyslop Road):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

WESTERLY on Hyslop Road by two curved lines, one measuring eighty-one and 6/100 (81.06) feet, the other measuring thirty-eight and 68/100 (38.68) feet;

NORTHERLY by two lines, one measuring thirty-five and 38/100 (35.38) feet, the other measuring one hundred (100) feet;

EASTERLY by a line, one hundred and eighty and 80/100 (180.80) feet;

SOUTHEASTERLY by a line, forty-eight and 30/100 (48.30) feet; and

SOUTHWESTERLY on land now or formerly of Judith Sprague, one hundred eighty-two and 53/100 (182.53) feet.

Containing twenty-seven thousand three hundred twenty-nine (27,329) square feet of land, more or less, according to said plan.

PARCEL III (110 Fisher Avenue):

BEGINNING at the northeasterly corner of the granted premises at a stone bound set in the southwesterly sideline of Fisher Avenue as shown on a plan hereinafter mentioned;

SOUTH 26° 17' 50" EAST by Fisher Avenue 120.00 feet to a point at remaining land of the Commonwealth of Massachusetts; thence

SOUTH 63° 42' 10" WEST by said land of the Commonwealth of Massachusetts 357.80 feet to a point at land now or formerly of Frank R. and Etta P. Pratt; thence

NORTH 39° 28' 50" EAST by said land of Pratt 168.59 feet to a stone bound; thence

NORTH 39° 29' 50" EAST 86.35 feet to a stone bound; thence

NORTH 39° 48' 50" EAST 39.39 feet to a stone bound; thence

NORTH 64° 02' 30" EAST 89.29 feet to the bound first mentioned and the point of beginning.

Containing twenty-six thousand nine-hundred fifty-one (26,951) square feet and being shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Water Division, Land in Brookline to be conveyed to Sisters of the Holy Cross of Massachusetts, The

Archbishop Cushing College," dated September 16, 1958, Harold J. Toole, Director of the Water Division and Chief Water Supply Engineer, recorded with said Registry in Book 3700, Page 525.

Excluding so much of the premises that was conveyed by deed from Newbury College, Inc. to Syroos Sanicoff and Ronni M. Sanicoff dated April 28, 2003 and recorded in Book 18778, Page 143, which included the following parcel of land:

A certain parcel of land, now known as and numbered 154 Hyslop Road in said Brookline, shown as Lot A on a plan dated October 10, 2002 and entitled "Subdivision Plan of Land in Brookline, Massachusetts, Norfolk County, I. F. Hennessey Co.", recorded with said Registry as Plan No. 264 of 2003 in Plan Book 507, containing four thousand three hundred and forty-seven (4,347) square feet(+/-) of land.

PARCEL IV (150 Fisher Avenue):

Tract I:

Lot B on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 32,625 square feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.

Tract II:

Lot A on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 28,510 feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351

125 HOLLAND

The premises at 125 Holland Road, Brookline, Massachusetts bounded and described as follows:

BEGINNING at a stone bound on the easterly side of Fisher Avenue about 15 feet northwesterly of Holland Road; thence running

NORTHWESTERLY on said Fisher Avenue 127.50 feet; thence turning at a right angle
and running

EASTERLY by land now or late of Curtis and land now or late of Nash on two courses 215.82 feet and 53.10 feet; thence turning and running
SOUTHERLY by land now, or late of Curtis 157.08 feet to Holland Road; thence turning and running
WESTERLY on said Holland Road 224.12 feet to a stone bound, thence turning and running
NORTHERLY on the street line 23.33 feet of beginning.

Containing 37,930 square feet of land, more or less, and being shown on plans by Ernest W. Bowditch, Engineer, recorded with said Registry in Book 807, Page 458; Book 1007, Page 553; and Book 1081, Page 378.

OR ACT ON ANYTHING RELATIVE THERETO.

PETITIONER'S ARTICLE DESCRIPTION

This Article, if approved, will authorize the Select Board to enter into and/or amend as necessary any new or existing agreements so that the Town receives the full benefits and protections as set forth in the Memorandum of Agreement pertaining to the proposed development of the former Newbury College Campus.

The Memorandum of Agreement and draft exhibits follows – although please note some exhibits may be placeholders.

This warrant article is one of seven warrant articles related to Welltower's proposed development on the former Newbury College campus. For more information on how this warrant article fits into the larger package, please review the explanation for the warrant article titled "Fisher Hill Special Overlay District Zoning" proposing a rezoning of the east side of the former Newbury College campus.

MEMORANDUM OF AGREEMENT – March 5, 2020 version

MEMORANDUM OF AGREEMENT
BY AND BETWEEN
THE TOWN OF BROOKLINE AND WELLTOWER INC. AND WELLTOWER TRS
HOLDSCO LLC

This Memorandum of Agreement (this “Agreement”) between WELLTOWER INC., a Delaware corporation and WELLTOWER TRS HOLDSCO LLC, a Delaware limited liability company, each having an office at 4500 Dorr Street, Toledo, Ohio 43615 (together with their successors and assigns hereinafter collectively referred to as “Developer”) and the Town of Brookline, a municipal corporation (“Town”), located in Norfolk County, Massachusetts and acting by and through its Select Board (the “Board”), (Developer and the Town being collectively referred to as the “Parties”) is made and entered into this ___ day of _____, 2020, upon the mutual promises and obligations hereinafter set forth and additional consideration which the parties acknowledge is adequate and appropriate, upon the following terms and conditions:

WHEREAS, by Quitclaim Deed dated September 5, 2019 recorded with the Norfolk Registry of Deeds (the “Registry”) in Book 37136, Page 283, Welltower Inc. acquired property in Brookline, Massachusetts commonly known as 117 Fisher Avenue and 124 Holland Avenue (said properties being sometimes referred to herein as the “East Parcel”, a legal description of which is attached hereto as Exhibit A-1);

WHEREAS, by Quitclaim Deed dated September 5, 2019 recorded with the Registry in Book 37136, Page 286, Welltower TRS Holdco LLC acquired property commonly known as (i) 110 Fisher Avenue, 150 Fisher Avenue, 146 Hyslop Road (a/k/a 129 Fisher Avenue) and 124 Fisher Avenue (said properties being collectively referred to as the “West Parcel”, a legal description of which is attached hereto as Exhibit A-2), and (ii) 125 Holland Road (“125 Holland”), a legal description of which is attached hereto as Exhibit A-3;

WHEREAS, Developer seeks to construct a senior living facility consisting of 160 units of independent living, assisted living and memory care units and related facilities and parking spaces for a total of 98 vehicles (hereinafter collectively referred to as the “Project”, which term does not include the 125 Holland Project as such term is defined below), and a summary of the proposed Project and associated concept site plan, and concept building massing are attached hereto as Exhibit B;

WHEREAS, the proposed location for the Project is the East Parcel all as more particularly described in the legal description contained in Exhibit A-1 (collectively referred to as the “Property” or the “Site” unless otherwise indicated);

WHEREAS, the Parties have elected to develop multiple options for the Project to address the requirements it engenders related to affordable housing, and intend to memorialize

the parameters by which the Developer will either: (1) provide eighteen (18) affordable condominium units at 125 Holland; or (2) provide a cash payment of Six Million Five Hundred Twenty Five Thousand Dollars (\$6,525,000) made payable to the Brookline Affordable Housing Trust Fund;

WHEREAS, the Parties agree that the Project will benefit the Town in many ways including, but not limited to: (1) the opportunity for the Town to acquire the West Parcel at an agreed-upon price or, if the Town elects not to acquire the West Parcel, share in certain proceeds of the sale of the West Parcel, as set forth below; (2) substantial fiscal benefits associated with the redevelopment of the East Parcel for a taxable use; (3) a 95-year Tax Certainty Agreement for the East Parcel (the "Tax Certainty Agreement"); (4) improvements to the public realm including a public area easement along the Fisher Avenue frontage of the East Parcel which will include the obligation of Developer to maintain the existing trees in the easement area (the "Public Area Easement"), (5) commitment to sustainable development in general conformance to the standards embodied in the Town's "Prohibition on New Fossil Fuel Infrastructure in Major Construction"; (6) providing access in the Project for neighborhood meetings and for events held by the Town's Council on Aging; and (7) maintenance for adaptive reuse of the Mitton House and addition on the East Parcel, subject to the terms hereof;

WHEREAS, the Newbury College Zoning Study Committee ("the Committee") intends to submit a zoning by-law amendment (the "Proposed Zoning Amendment") for consideration at the Town Meeting commencing in May, 2020 that, if approved, would allow the Project to proceed through a special permit process informed by design guidelines developed specifically for the Project;

WHEREAS, the provisions of this Agreement are available for consideration by the Planning Board and the Board of Appeals in reviewing any application for a special permit(s) for the Project;

WHEREAS, the Parties wish to enter into this Agreement to memorialize their mutual understandings and obligations with respect to (1) the Project and certain permits and approvals required for the Project, as well as any other agreements between the Developer and the Town pertaining to the Project, including a 95-year Tax Certainty Agreement and the Public Area Easement, (2) the manner in which the Developer will comply with the requirements of Section 4.08 of the Town's Zoning Bylaw with respect to affordable housing requirements; (3) agreements of the Parties with respect to the disposition of the West Parcel; and (4) other matters set forth herein, all on the terms and conditions hereinafter set forth;

WHEREAS, the Parties contemplate entering into such further binding agreements as reasonably appropriate and approved by both Parties to proceed with the Project and to satisfy the mutual obligations contained herein;

NOW THEREFORE, in consideration of the promises and mutual obligations of the Parties hereto and upon good and valuable consideration the receipt and sufficiency of which the Parties acknowledge, each of them does hereby covenant and agree as follows:

1. CERTAIN DEFINITIONS. All references herein to the following terms shall have the meanings hereinafter set forth:
 - a. All references to the “Proposed Project Zoning Amendment” shall be construed as a reference to the text of a Warrant Article prepared for the Town Meeting commencing May 19, 2020, a copy of which is attached hereto as Exhibit C, as such text may be amended at Town Meeting, provided that such amendments do not impose burdens on the Project that are materially adverse to the financial feasibility of the Project in the reasonable judgement of Developer (which may include construction or operation costs). If Developer determines in its reasonable judgment that any such amendment/s to the text of the Proposed Project Zoning Amendment (Exhibit C) do impose burdens on the Project that are materially adverse to the financial feasibility of the Project, Developer shall use all commercially reasonable efforts to notify the Town as soon as possible prior to any vote to amend the Proposed Project Zoning Amendment. If the Proposed Project Zoning Amendment is nonetheless passed in a form amended in a materially adverse manner, and as a result thereof Developer decides in its sole discretion not to proceed with the Project or if Developer determines in its reasonable judgment that the amendment/s prohibits Developer from proceeding with Project as proposed then, in either case, Developer shall so notify the Town in writing within seven (7) business days after the date Town Meeting votes these articles, and in such case this Agreement shall immediately become null and void and of no force and effect.
 - b. All references to the “Town Meeting Approval Conditions” shall be construed as references to: (i) approval by the 2020 Annual Town Meeting and the Attorney General of the Proposed Project Zoning Amendment; (ii) authorization by Town Meeting of the acceptance of the 95-year Tax Certainty Agreement attached hereto as Exhibit D; (iii) authorization by Town Meeting for the Select Board to execute this Agreement and any other documents or agreements necessary or appropriate for implementation of the proposed Project; and in each case with challenge periods to all such Town Meeting actions having passed (which, in the case of the Proposed Zoning Amendment, shall be the challenge period under G.L. c. 40, Secs. 32 and 32A) with no challenges by unrelated third parties pending or, if any of such actions is/are challenged, the same having been finally disposed of in a manner favorable to the Town Meeting action, not later than December 31, 2020. Notwithstanding anything herein to the contrary, if the Town Meeting Approval Conditions have not been satisfied by such date, then the Developer shall have the right, at any point prior to the issuance of the Special Permit contemplated by the Proposed Project Zoning Amendment, to abandon its permit application and relinquish its right to pursue the Project. Exercise of said right by the Developer will terminate this Agreement without the need for any further action on the part of either Developer or the Town, and without further recourse to the parties hereto.
 - c. All references to the “Special Permit and Other Required Approvals” shall be construed as references to such other special permits, variances, licenses and/or other approvals, including but not limited to the expiration of any demolition delay under the Town’s Demolition Delay By-Law or lift(s) of stay as to such delay, any additional special

permits under the existing Zoning By-Law and Proposed Project Zoning Amendment, including building permits and certificates of occupancy, which are necessary, in Developer's and Town's reasonable determination, to allow for the construction and operation of the Project such that the Project, with all the appeal periods having passed, with no appeals pending or, if any such permit or approval is appealed, the same having been finally disposed of favorably to Developer not later than two (2) years from the date of issuance of the permit or approval which is the subject of the appeal.

2. AFFORDABLE HOUSING.

- a. 125 Holland Option. In addition to the Town Meeting Approval Conditions, the Committee shall submit a warrant article for consideration at the 2020 Annual Town Meeting (the "Proposed 125 Holland Warrant Article", a copy of which is attached hereto as Exhibit E) pursuant to which 125 Holland shall be included in an overlay district to allow for the construction thereon of a condominium project containing eighteen (18) units of affordable housing (the "125 Holland Project"). In the event that the 125 Holland Warrant Article fails to achieve the 2/3 Town Meeting vote necessary for approval, the "Cash Option", as described further below, shall automatically take effect.

A conceptual site plan of the development of 125 Holland Project proposed by the Proposed 125 Holland Warrant Article is attached as Exhibit F. The conceptual site plan is subject to change as 125 Holland Developer advances the 125 Holland Project.

The Town understands and agrees that the Developer does not intend, nor shall it be required to construct the 125 Holland Project. Accordingly, the Developer shall have the right to enter into such contractual arrangements with a third party, which the Developer has determined to have the requisite experience and financial wherewithal to construct the 125 Holland Project (the "125 Holland Developer"). The Developer shall include within the arrangements it enters into with the 125 Holland Developer a provision stating that any recourse by the 125 Holland Developer to the Zoning Board of Appeals for modification of the affordability requirements pursuant to Section 5.06.4.m.4 (or equivalent section), if such recourse would require raising the applicable Median Income levels, shall be conditioned upon prior recourse to funds available to the 125 Holland Developer by means of all budgeted contingencies (but in no event including the Developer Backstop, as such term is hereinafter defined). The Developer shall send to the Town copies of all contractual arrangements reached with the 125 Holland Road Developer prior to their execution. Pursuant to said contractual arrangements:

- (i) As soon as is reasonably feasible following the later of (i) issuance of a building permit for the Project, and (ii) the 125 Holland Developer's obtaining a construction loan for the 125 Holland Project (which construction loan is expected to contain or require customary net worth and liquidity covenants of the 125 Holland Developer and its guarantors), the Developer shall cause 125 Holland to be conveyed for nominal

consideration to the 125 Holland Developer, subject to an Affordability Deed Restriction (in a form substantially similar to the one attached at Exhibit G) whose terms specify that it will survive any further transfer including foreclosure; and

- (ii) the Developer shall contemporaneously contribute cash in the amount of Three Million One Hundred Twenty Three Thousand Dollars (\$3,123,000) to the 125 Holland Project, to be deposited in a construction disbursement account and made available on a requisition basis to the 125 Holland Developer during the course of construction on customary terms and conditions; and
- (iii) except for the Developer Backstop (as hereinafter defined), the 125 Holland Developer shall be solely responsible for all costs associated with the 125 Holland Project, including, without limitation, the design, financing, construction, completion and marketing of the same. The Developer agrees to reasonably cooperate in the 125 Holland Developer's attempt to secure all permits and approvals necessary to proceed with the 125 Holland Project, including by executing applications for the same (or authorizing the 125 Holland Developer to do so), but such cooperation shall be at no additional cost or obligation to Developer. Following the conveyance of 125 Holland to the 125 Holland Developer, the 125 Holland Developer shall be responsible for obtaining all necessary approvals and permitting and the Developer agrees not to appeal or otherwise contest any issuance of any permit necessary to complete or bring online the 125 Holland Project.

It is expressly understood and agreed by the Town that under no circumstance shall the issuance of the Special Permit and Other Required Approvals for the Project (including, without limitation, any building permit or certificate of occupancy) be conditioned on the commencement or completion of the 125 Holland Project.

If the 125 Holland Developer is unable to close on a construction loan for the 125 Holland Project by December 31, 2021, the obligations of the Developer hereunder will automatically revert to making the cash payment described in the Cash Option below without the need for any further agreement or documentation.

Upon closing of the construction loan for the 125 Holland Project, Welltower Inc., will also provide a financial guaranty of up to \$650,000 (the "Developer Backstop") for the benefit of the Town to help ensure completion of the 125 Holland Project should the funds available for completion be deemed insufficient by the construction lender after recourse to the available sources of funding from the 125 Holland Developer and its guarantor(s). Evidence that the construction lender has deemed the funds insufficient shall include: (1) notification by the construction lender to the Developer or the Town that the construction lender has reached such a conclusion; (2) publication of a foreclosure sale of 125 Holland; (3) classification by the lender of the loan as 100 percent impaired with a full write-

off; or (4) an arm's length sale of the loan while impaired. To the extent Welltower Inc. elects not to contribute further funds under the Developer Backstop to help ensure completion of the 125 Holland Project under those circumstances, Welltower Inc. will be required to pay into the Town's Affordable Housing Trust any funds not previously advanced by the Developer under its Developer Backstop. If (1) Welltower has not advanced the full amount of the Developer Backstop prior to the later of (i) December 31, 2023 or, (ii) the term of any applicable construction loan as the same may be extended by the construction lender, and (2) the 125 Holland Road Project has not been completed by such date, Welltower Inc. will be required to pay into the Town's Affordable Housing Trust any funds not previously advanced under the Developer Backstop, unless it has already done so.

It is understood that the text of the Proposed 125 Holland Warrant Article may be amended at Town Meeting, provided that such amendment/s in the reasonable judgement of the 125 Holland Developer, do not impose burdens on the 125 Holland Project which are materially adverse to the Developer or the ability of the 125 Holland Developer to complete the 125 Holland Project (which may include increased construction or operation costs or decreased maximum affordable sales prices). If any such amendment/s to the text of the Proposed 125 Holland Warrant Article do impose burdens on the 125 Holland Project as set forth in the preceding sentence, then Developer or the 125 Holland Developer shall so notify the Town in writing within seven (7) business days of the conclusion of Town Meeting, and in such case the provisions of Section 2(b) below shall automatically come into effect.

- b. Cash Option. Upon the occurrence of the Cash Trigger Conditions (as hereinafter defined), in lieu of the 125 Holland Project, the Developer shall fully satisfy all obligations arising under Section 4.08 or other operative provision of the Zoning By-law with respect to affordable housing by making a cash contribution to the Town's Affordable Housing Trust Fund (the "Cash Contribution") equal to Six Million Five Hundred Twenty Five Thousand Dollars (\$6,525,000) in two installments. Per Section 4.08 of the Town's Zoning By-Law, this obligation (minus the initial 25% payment if paid in advance) shall be secured at Developer's discretion via a recorded legal instrument or letter of credit satisfactory to the Community Development Division prior to issuance of a building permit for the Project. Fifty percent (50%) of the Cash Contribution shall be payable thirty days after the later of (i) the issuance of the first non-appealable building permit for the Project, and (ii) the occurrence of a Cash Trigger Condition. The balance of the Cash Contribution shall be due prior to the issuance of the final Certificate of Occupancy for the Project. Early advances on the 50% final payment may be made on a mutually agreed upon basis between the Select Board and Developer with incentives for early payments to be negotiated in good faith. Any unpaid balance 48 months following an appeal-free Special Permit shall accrue interest at an annual rate equal to the monthly 10-year U.S. Treasury rate.

As used herein, the term “Cash Trigger Conditions” shall mean and include either of the following: (1) the Town Meeting beginning in May, 2020 fails to approve the Proposed 125 Holland Warrant Article, or it is approved with one or more material adverse text amendments as set forth in Section 2(a) above, or the Attorney General does not approve it or the rescission thereof; or (2) the 125 Holland Developer fails to close on a construction loan by December 31, 2021.

3. WEST PARCEL

- a. Possible Acquisition of West Parcel by the Town. The Town agrees to take such actions as are required to cause there to be a vote of all the Town’s electorate by no later than May 8, 2020 to approve a so-called debt exclusion enabling the Town’s acquisition of the West Parcel for a purchase price (the “West Purchase Price”) equal to Fourteen Million Eight Hundred Thousand Dollars (\$14,800,000). In anticipation of that vote, the Town shall propose for the 2020 Annual Town Meeting the following warrant articles (collectively, the “Proposed West Parcel Warrant Articles”): (i) a warrant article authorizing the Town to acquire the West Parcel for the West Purchase Price, in the form of Exhibit H annexed hereto, and (ii) a warrant article authorizing the Town’s chosen method for financing the acquisition. If the Town electorate approves the debt exclusion by majority vote, the Developer and the Town shall negotiate in good faith to enter into a purchase and sale agreement for the conveyance of the West Parcel to the Town (the “West Parcel PSA”) for the West Purchase Price with a closing to take place no later than thirty (30) days after the satisfaction of the Town Meeting Approval Conditions (or as otherwise agreed to by the Parties), and on terms otherwise reasonably acceptable to the Parties. Developer shall carry commercially reasonable property insurance until closing to cover any potential property loss. Without limiting the generality of the foregoing, it is understood that the West Parcel shall be conveyed to the Town on an “as-is, where-is” basis without any representation or warranty as to the condition of the West Parcel or any improvements thereon or its potential development.
- b. Possible Profit Sharing Upon Sale of West Parcel. Upon the occurrence of any Profit Sharing Trigger Conditions (as hereinafter defined), the Developer shall commence and thereafter use commercially reasonable efforts to market the West Parcel for sale to a third party. Such commercially reasonable efforts may include, at Developer’s discretion, retaining a qualified real estate brokerage firm to assist with the marketing of the property in order to achieve the best possible price on terms and conditions that are acceptable to the Developer in its discretion. Developer shall send to the Town or its consultant for informational purposes only Welltower’s marketing and disposition plan for the West Parcel. It is understood and agreed that whether or not to sell the West Parcel, the identity of any purchaser, the timing of such sale, and all other terms and conditions of any such potential sale shall all be in the Developer’s sole discretion. If the purchase price Developer is willing to accept for the West Parcel in an arms-length transaction exceeds the West Purchase Price then Developer shall pay to the Town an amount (the “Town’s

Share”) equal to the total of the “Incremental Town Proceeds, as shown on the Chart entitled “Profit Sharing Structure – Newbury College West Side” and annexed hereto as Exhibit I, less the Developer’s out of pocket transaction costs incurred by the Developer in connection with the sale. The Town’s Share shall be paid by the Developer to the Town not later than seven (7) business days after the closing of such sale, and shall be deposited with the Town Treasurer and held in a separate account until a purpose is authorized. As used herein, Developer’s transaction costs shall include reasonable and customary costs and charges incurred by a seller of commercial property in the Commonwealth of Massachusetts and the Town of Brookline, including, without limitation, broker’s fees and commissions, all marketing costs, transfer taxes, costs to clear any title matters, attorneys’ and other consultants’ fees and expenses related to the sale.

The term Profit Sharing Trigger Conditions shall include any of the following: (i) the Town’s voters failing to approve the debt exclusion by May 8, 2020; (ii) the May, 2020 Town Meeting failing to approve the Proposed West Parcel Warrant Articles, or the Attorney General failing to approve the same or the rescission thereof; or (iii) the Parties, despite the exercise of good faith efforts, failing to agree upon the terms and enter into the West Parcel PSA by thirty (30) days after the approval by Town Meeting of the Proposed West Parcel Zoning Articles. It is understood and agreed that if the Parties enter into the West Parcel PSA and the Town subsequently defaults on its obligation to acquire the West Parcel, the same shall not be considered a Profit Sharing Trigger Condition. Rather, upon such a default, the Developer shall immediately be relieved of its obligations under this Section 3 to convey the West Parcel to the Town and any requirement to pay the Town’s Share (or any other amount) to the Town upon a sale or other disposition of the West Parcel, without the need for any further documentation to that effect.

Further, should the Developer elect to convey the West Parcel to an entity not subject to taxation by the Town, the Developer shall supply such tax-exempt purchaser with a copy of the Town’s Payment In Lieu of Taxes (PILOT) Policy (a copy of which is attached hereto as Exhibit J and require, as a condition of the Purchase and Sale Agreement with said tax-exempt purchaser, that the purchaser meet with the Town Administrator to discuss PILOT Payments prior to closing.

4. FURTHER PERMITTING. The Developer agrees to use all commercially reasonable efforts to diligently apply for and pursue all permits and approvals necessary to proceed with the Project subject to financing and economic conditions. It is understood that the Developer will be subject to the timeframes applied to the Project by the Proposed Project Zoning Amendment, including all sunset provisions. Further, it is of great importance to the Developer that it be able to commence construction of the Project as soon as possible. Accordingly, to the maximum extent permitted by law, the Town agrees to take such actions as may be reasonably necessary or appropriate to expedite review and approval of the Project so that Developer (or any affiliate thereof) can receive a building permit for the Project as soon as possible. Such actions shall include the formation by the Town of a Design Advisory Team (“DAT”) for the Project as a so-called “Major Impact Project”

under the Town's Zoning By-law within fifteen (15) days after Town Meeting approval of the Proposed Project Warrant Article, and the Town will use best efforts to cause the DAT to begin its review of the Project by no later than June 30, 2020. It is further understood and agreed that the Design Guidelines to be used by the DAT in its review of the Project shall be substantially in accordance with the document attached as Exhibit K hereto. Representatives of the Town Planning Department and Town Counsel's office will use best efforts to attend all meetings of the Developer and Town Preservation Commission at which the Project is discussed, including without limitation, Developer's efforts to expedite the lifting of the stay of demolition of affected buildings on the East Parcel under the Town's Demolition Delay By-law.

5. RECORDING OF AGREEMENT AND EXECUTION OF TAX CERTAINTY AGREEMENT. Upon satisfaction of the Town Meeting Approval Conditions Developer shall immediately record this Agreement with the Registry at its own expense and shall provide evidence of such recording to Town Counsel; and ii) Developer and the Town shall execute the Tax Certainty Agreement and Developer shall deliver the same to a mutually agreed upon escrow agent to be held in escrow pursuant to mutually agreed upon conditions under the provisions of this Agreement (the "Escrow Agent"). In the event the Town Meeting Approval Conditions are not satisfied by December 31, 2020, and the Developer elects to abandon its permit application and relinquish its right to pursue the Project prior to the issuance of a Special Permit contemplated by the Proposed Project Zoning Amendment, this Agreement and the obligations set forth in the Tax Certainty Agreement shall become null and void and of no force and effect.
6. RECORDING OF TAX CERTAINTY AGREEMENT. In the event that the Special Permit and Other Required Approvals are satisfied, Developer shall deliver notice thereof to the Escrow Agent, who shall promptly thereafter record with the Registry the Tax Certainty Agreement. In the event that the Special Permit and Other Required Approvals are not satisfied, or Developer does not proceed with the Project, either party may deliver notice to the Escrow Agent (with a copy to the other party hereto), and the Escrow Agent shall thereafter immediately return the original copy of the Tax Certainty Agreement to Developer. In such case where the Tax Agreement is returned to the Developer, all further obligations set forth in this Agreement shall become null and void and of no force and effect.
7. TAXABLE PERSONAL PROPERTY. The Developer agrees to have the personal property associated with the Project held in entity taxable to the Town, and taxed at the applicable commercial rate. In the event of a conveyance of the Project to a third party in a bona fide transaction, the Developer shall take steps insure this standard remains in place, absent any changes to the applicable laws or regulations.
8. SUSTAINABLE DESIGN. Upon execution of this Agreement, the Town and the Developer agree to work in a voluntary partnership such that the development process of the Project will explore, pilot and innovate sustainable practices from conceptual design through full occupancy ("Voluntary Sustainability Partnership"). The purpose of this Voluntary Sustainability Partnership is to create replicable best practices that will be

shared by the Town and the Developer, to the benefit of the Town, the Developer, and the larger community. Without limiting the generality of the foregoing, the Developer will undertake the following in connection with the construction and operation of the Project (referred to herein as the “Sustainability Undertakings”)

- a. The Project will be constructed in a manner so as to be LEED-NCv4 Gold Certifiable.
- b. The Project will not use natural gas or fuel oil except as necessary for the commercial kitchens, emergency generator, indoor swimming pool and domestic hot water.
- c. Developer will implement certain sustainable design principals as follows
 - (i) Consider the use of permeable pavements such as permeable asphalt for driveways and parking areas, and permeable concrete pavers for the vehicular entry plaza, Holland Rd. Overlook, and other site features where feasible.
 - (ii) Stormwater control measures will optimize on-site filtration using rain gardens and bioswales.
 - (iii) Installation of native and drought tolerant plants and bird- friendly and pollinator plants.
 - (iv) Use of Electric vehicles for on-site fleet of passenger vehicles for transporting Project residents, including providing electric vehicle charging stations in excess of current Town requirements for Project residents and guests. On-site fleet will be registered in Massachusetts and garaged at the property in a manner that allows the application of Town vehicle excise tax.
 - (v) Providing bicycle parking on site to accommodate residents, staff, and visitors with shower and dressing room access to be provided to employees who may choose to bike to work.
 - (vi) Use of full cut-off exterior light fixtures with LED lighting and pole mounted fixtures limited to surface parking areas.
 - (vii) Provide visual and physical access to vegetation.
 - (viii) General design spaces designed to support social connection.
- d. To the extent feasible as reasonably determined by the Developer, it will implement so-called Passive House strategies to reduce energy use.
- e. Developer will optimize energy efficiency of building systems, including
 - (i) Providing water-efficient plumbing fixtures,
 - (ii) Performing Building Commissioning, and
 - (iii) Training for Operations and Maintenance
- f. To the extent feasible as reasonably determined by the Developer, Developer will implement WELL strategies to provide users with a healthy building, including
 - (i) Optimizing daylighting and views,
 - (ii) Specification of healthy building materials, and
 - (iii) Providing healthy indoor air quality measures

- g. Developer will optimize the building for solar renewable energy measures and will consider photovoltaic and solar thermal where feasible.
9. VOLUNTARY SPECIAL PERMIT CONDITIONS: The Developer hereby acknowledges that the following conditions of the Special Permits for the Project shall be acceptable to the Developer and shall not be grounds for objection to the Special Permits granted by the Brookline Zoning Board of Appeals (Board of Appeals):
- a) To the fullest extent permitted by law, the Developer shall comply with all terms of this Memorandum of Agreement, as such Agreement may be amended from time to time, in accordance with the provisions herein.
 - b) The Project will include a maximum of 160 units of which no more than 120 shall be a combination of independent living units (IL) and assisted living (AL) units, with the balance to be memory care (MC) units, it being understood that the precise unit mix may change from time to time in accordance with the provisions of this paragraph. The base numbers of 80 IL units and 40 AL units may vary such that there will be between 74 and 86 IL units and between 34 and 46 AL units, subject to the cap of a total of 120 IL and AL units. Further, to the extent there are fewer than 120 IL and AL units, the number of units below 120 may be MC units. Nothing in this paragraph shall preclude Developer from reducing the overall number of units in the Project (such as, by way of example, only combining separate units into a single unit). The following are examples only of permissible unit mixes: (1) 74 IL, 40 AL, 46 MC; (2) 74 IL, 46 AL, 40 MC; (3) 76 IL, 36 AL, 48 MC; (4) 70 IL, 30 AL, 40 MC.
 - c) The Project will have bulk and dimensional limits meeting the requirements of the Proposed Project Zoning Amendment, and have parking provided for 98 vehicles, of which only 55 may be surface parking.
 - d) In accordance with the Proposed Project Zoning Amendment, if Developer determines that the number of surface parking spaces (55) can be reduced without impacting the neighborhood it may seek a modification to the Special Permit to reduce the surface parking subject to review and approval by the Director of Engineering and Transportation.
 - e) All illuminated exterior signage shall be designed and installed with the ability to be automatically dimmed after midnight.
 - f) Developer will comply with the Sustainability Conditions.
 - g) Unless otherwise agreed to by the Preservation Planners the applicant shall, using available records and to the extent it is feasible to do so, provide historic documentation of the following buildings on the East Parcel, prior to the issuance of a demolition or other building permit with respect to such buildings:

_____. Issuance of the demolition permit shall be evidence that this condition has been satisfied.

- i. This documentation shall include:
 1. background information: the historic and common names of the property, documentation of date of construction, complete stylistic and/or architectural description of the resource, description of architectural and/or associative significance using reliable sources, contextual information that equates the significance of the property, original and current function, and the name and biographical information of architect and/or builder.
 2. drawings, maps, and historic images: site plan showing footprint of the subject resource and surrounding buildings; sketch floor plans of existing conditions of all levels of each building, or copies of original plans if available (8 ½ x 11 format or digital format); if available, clear copies of historic photographs; USGS quad/topo map indicating location of property with UTM's;
 3. photographs of: overall site showing context and setting; each exterior elevation of subject property; detail images of significant character-defining features, such as windows, doors, eave details, porches, balconies, etc.; general views of all significant interior spaces; detail images of significant structural details if building is of a rare construction method (i.e. post and beam, balloon framing, mortise and tenon joinery, etc.). All photos must be identified with a list of the photographs indicating property name, address (city, county), date of photograph(s), and view; unmounted.
 - ii. All non-photographic documentation shall be submitted in 8 ½ x 11 format and printed on archivally stable paper (25% cotton bond or better) and provided in digital format (min 300dpi).
 - iii. All photographic documentation shall be provided in 5x7 or 8x10 format using archival quality paper and provided in digital format (min 300 dpi).
- h) Developer shall propose a Transportation Demand Management Plan for approval by the Director of Engineering & Transportation and the Planning and Community Development Director (or designee).
 - i) The Project Operator will partner with the Council on Aging and/or Brookline CAN on various cultural, educational and/or musical/artistic events at least quarterly per year with the location and logistics of such events to be agreed to in advance by the Project Operator and the Director of the Council on Aging or Brookline CAN as the case may be. Such events shall be at either the Project Site or the Senior Center or other public place as mutually agreed upon. The Developer has also agreed to

make a voluntary contribution of \$2500 per year to the Brookline Multi-Service Senior Center Corporation to support its programming for so long as the Developer or any affiliate thereof owns and operates the Project.

- j) Developer will provide community space for meetings of local neighborhood associations or other Brookline non-profits a minimum of twelve times per year.
- k) Developer will provide a landscaped buffer to abutters on the South side entry.
- l) Developer will remove the existing curb cut on Holland Road to reduce traffic.
- m) Developer will provide a Public Easement Area to create a green buffer on Fisher Ave and maintain the existing trees on Fisher Ave (with an approximate current value of \$276,000). The Public Easement Area shall be subject to a Tree Protection Plan, which shall be submitted to the Tree Warden for his review and approval. Trees within the Public Easement Area shall be maintained at Developer's cost.
- n) On-site and off-site pedestrian and landscaping improvements equivalent to those shown and diagrammed on Exhibit B;
- o) Additional pedestrian, bicycle, and traffic infrastructure mitigation may be required subject to further study and analysis during the Major Impact Project review process. Such mitigation is anticipated by Developer to include the following:
 - i. bicycle parking on site to accommodate residents, staff, and visitors with shower and dressing room access to be provided to employees who may choose to bike to work.
 - ii. To the extent feasible, new on-site pedestrian walkways will provide connectivity to/from the existing public sidewalk and crosswalk network around the site to enhance pedestrian mobility for residents and employees.
- p) Developer will maintain the Mitton House and its addition for adaptive reuse in its Project design.
- q) The Project operator will hold a job fair at the Brookline Teen Center or other public venue, and to the extent permitted by law will give qualified Brookline residents preference for jobs at the facility. In order to make Brookline residents aware of job opportunities the Project operator will send a notice at reasonable intervals of such job opportunities to the Town's Director of Diversity and Inclusion and he/she may post and/or share with other interested parties. The Project operator will also work with the Brookline High School culinary arts and restaurant program to provide, from time to time paid or unpaid internship opportunities for students engaged in the culinary arts program at the High School.
- r) Developer will pay for the relocation and raising of the crosswalk on Fisher Avenue in front of the proposed development.

- s) Balfour Senior Living, or an affiliate thereof shall be the initial manager of the Project.

10. Standard Requirements:

All Parties to this Agreement agree that the Project shall not, by way of this Agreement or the Proposed Project Zoning Amendment, be exempt from any charges, fees monetary or otherwise, that have been promulgated as of the date hereof pursuant to statute, by-law, regulation or written policy.

11. Undertakings of the Town:

On _____, 2020 the Select Board voted favorable action on the Proposed Project Zoning Amendment, Tax Certainty Agreement, the Proposed West Parcel Warrant Articles and a Warrant Article related to the general authorization for this Memorandum of Agreement subject to the terms and conditions of this Agreement and shall convey its votes and favorable report to the Advisory Committee and in the Combined Reports which shall be delivered to all Town Meeting Members. The Select Board shall support and undertake action necessary to obtain the approval of the Attorney General of The Commonwealth of Massachusetts of the Proposed Project Zoning Amendment by Town Meeting. The Select Board shall also, to the extent appropriate, cooperate with the Developer and shall encourage Town staff to cooperate with the Developer in reviewing in a timely and expeditious manner any required permits and approvals for the Project.

11. Miscellaneous:

- a) It is the intent of the Parties that the obligations in this Agreement shall run with the land comprising the Project and be binding upon and inure to the benefit and burden of the Developer and its mortgage lenders and their heirs, successors and assigns during their respective periods of ownership of and/or interests in the Project and its components and shall survive any transfer of the Property or any portion thereof. The Developer agrees to provide a copy of this Agreement to any transferee of the Property or any portion thereof.
- b) Each of the Parties signing below hereby represents and warrants that it is authorized to enter into this Agreement and execute the same on behalf of, and to bind legally, such Party.
- c) All notices or requests required or permitted hereunder shall be in writing and addressed, if to the Town as follows:

Select Board
Town of Brookline
333 Washington Street
Brookline, MA 0 2445

with a copy to:

Town Counsel
Office of Town Counsel
333 Washington Street
Brookline, MA 02445

If to Developer addressed as follows:

Welltower Inc.
4500 Dorr Street
Toledo, OH 43615
Attention: General Counsel

with copies to:

Welltower Inc.
767 5th Avenue, 8th Floor
New York, NY 10153
Attention: Investment Team

Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110
Attention: Steven Schwartz, Esq.

Jennifer Dopazo Gilbert, Esq.
Law Office of Robert L. Allen, LLP
300 Washington Street
Brookline, MA 02445

Each of the Parties shall have the right by notice to the other to designate additional parties to whom copies of notices must be sent, and to designate changes in address. Any notice shall have been deemed duly given if mailed to such address postage prepaid, registered or certified mail, return receipt requested, on the date the same is received or when delivery is refused, or if delivered to such address by hand or by nationally recognized overnight courier service, fees prepaid, when delivery is received or when delivery is refused, or if transmitted by facsimile or other electronic means with confirmatory original by one of the other methods of delivery herein described, on the date so transmitted by facsimile or other electronic means.

If and to the extent that either of the Parties is prevented from performing its obligations hereunder by an event of force majeure, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the Parties instead shall negotiate in good faith with respect to appropriate modifications to the terms hereof to confer the benefits to each respective party as contemplated by this Agreement. For purposes of this Agreement, the term force majeure shall mean any cause beyond the

reasonable control of the affected party, including without limitation: acts of God, fire, earthquake, floods, explosion, actions of the elements, war, terrorism, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market; failure of transportation, strikes, lockouts; actions of labor unions; condemnation, laws or orders of governmental or military authorities, requirement of statute or regulation, action of any court, regulatory authority, or public authority having jurisdiction; or any other cause similar to the foregoing, not within the reasonable control of such party obligated to perform such obligation. With respect to any particular obligation of Developer only, the term force majeure shall include the denial or, refusal to grant or appeals of any permit or approval of any public or quasi-public granting authority related to the Town Meeting Approval Conditions and Special Permit and Other Required Approvals, and any litigation brought by a third party relating to any such obligation.

- d) Failure by the Developer to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until the Developer fails to commence to cure, correct or remedy such failure within sixty (60) days of the receipt of written notice of such failure from the Town to the Developer and thereafter fails to complete such cure, correction or remedy within ninety (90) days of receipt of such written notice or, with respect to defaults which cannot reasonably be cured, corrected or remedied within such ninety (90) day period, within such additional period of time as is reasonably required to remedy such default, provided the Developer exercises due diligence in the remedying of such default and notifies the Town of the steps being taken to remedy the default.
- e) The Parties agree that time is of the essence with respect to the obligations of the Parties as set forth herein. Subject to market conditions and financing availability, the Developer agrees to use best efforts to diligently apply for the necessary special permits and then expeditiously as possible after the issuance of the Special Permit(s) for the Project to apply for all necessary building permit(s) and to diligently commence work on the Project subject to the terms herein. The Town agrees to request an expedited determination from the Office of the Attorney General with respect to the Proposed Project Zoning Amendment.
- f) The obligations of the Developer do not constitute the personal obligations of the Developer's employees, shareholders, members, directors or officers and the Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise. In no event shall the Developer be liable for any incidental, indirect, punitive or special or consequential damages.
- g) Each Party agrees from time to time, upon not less than ten (10) days' prior written request from the other, to execute and deliver a statement in writing certifying that this Agreement is in full force and effect (or if there have been any modifications, setting them forth in reasonable detail), and that there are no uncured defaults of either Party under this Agreement (or, if not, specifying the respects in which the requesting party is not in compliance in reasonable detail), in form reasonably acceptable to and which

- may be relied upon by any prospective purchaser, tenant, mortgagee or other party having an interest in the Property and any component of the Project.
- h) Upon full performance by the Developer of its obligations hereunder, the Town, at the Developer's request shall issue a statement in a form appropriate for recording with the Registry stating that all of the terms of this Agreement have been satisfied.
 - i) Whenever the consent or approval of any party is required for another party to take an action under this Agreement, except where explicitly provided to the contrary, such consent or approval shall not unreasonably be withheld, delayed or conditioned.
 - j) This Agreement shall be deemed to have been executed within the Commonwealth of Massachusetts and the rights and obligations of the Parties shall be governed by Massachusetts law. Any action to enforce the terms of this Agreement shall be brought in Norfolk County Superior Court.
 - k) If any provision of this Agreement or the application of such provision to any person or circumstances shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement or the application of the provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected and shall be valid and enforceable to the fullest extent.
 - l) This Agreement and the accompanying 95-year Tax Certainty Agreement set forth the entire agreement of the Parties with respect to the subject matter thereto. The failure of any party to strictly enforce the provisions hereof shall not be construed as a waiver of any obligation hereunder. This Agreement may be modified only in a written instrument signed by the Select Board and the Developer.
 - m) Non-discrimination: Developer agrees to fully comply with the federal, state, and local nondiscrimination laws, including the provisions of Mass. Gen. Laws, Chapter 151B, in its employment practices, its contracting, and its procurement of goods and services. Developer further agrees that it will take commercially reasonable affirmative steps to establish fair access to employment opportunities at the project with the goal of attempting to create a workforce that is an accurate reflection of the demographics of the qualified available workforce in the Boston /Brookline /Newton geographic area or other area from which the type of employees sought are located.
 - n) M/WBE contracting/Procurement: Developer commits to work with the Brookline Office of Diversity, Inclusion, and Community Relations (the Diversity Office) (1) to identify minority and women contractors and subcontractors for the development of the project, (2) to identify minority and women vendors to provide goods and services to the project during construction and once it is operational, and (3) to establish goals for the number of contractors and subcontractors it will attempt to use and the amount of procurement from minority and women vendors and service providers it will attempt to purchase. Once a year Developer agrees to report to the Diversity Office the extent to which it succeeds in achieving its goals as stated above.

June 23, 2020 Annual Town Meeting
11-24

(The Remainder of this Page is Intentionally Left Blank – Signature Pages follow)

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the date first written above.

DEVELOPER

WELLTOWER INC.

By: _____
Its:
Title:

WELLTOWER TRS HOLDCO LLC

By: _____
Its:
Title:

Dated: _____

**TOWN OF BROOKLINE SELECT
BOARD**

Dated: _____

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

I hereby certify that on this _____ day of _____, 2020, personally appeared the above named _____, and provided identification in the form of _____, and who executed the foregoing as his free act and deed as _____ of _____.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

I hereby certify that on this _____ day of _____, 2020, personally appeared the above named _____, and provided identification in the form of _____, and who executed the foregoing as his free act and deed as _____ of _____.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

I hereby certify that on this _____ day of _____, 2020, personally appeared the above named _____, _____, _____, and _____, personally known to me and who executed the foregoing as their free act and deed as members of the Select Board of the Town of Brookline acting on behalf of the Town of Brookline.

Witness our hands and seals at Norfolk County, Brookline, Massachusetts, this ____ of _____, 2020.

Notary Public
My Commission Expires:

June 23, 2020 Annual Town Meeting
11-28

**NOTE: FOLLOWING ARE DRAFT EXHIBITS AND/OR PLACEHOLDERS TO BE
REPLACED AND/OR ADDED TO PRIOR TO FINAL EXECUTION.**

EXHIBIT A-1

PARCEL ONE (117 Fisher Avenue):

BEGINNING at a monument in the easterly line of Fisher Avenue, thirteen hundred six (1,306) feet from Boylston Street at the northwest corner of the land conveyed to the Inhabitants of the Town of Brookline by Horace N. and John H. Fisher, thence

NORTHEASTERLY: on said land at right angles with said Avenue, 264.02 feet to a monument; thence

NORTHERLY: on said land 250.76 feet to a monument at a point where the fence bounding said land as it now runs makes an angle; thence

SOUTHWESTERLY: by a straight line drawn 414.92 feet to a point in the easterly line of said Avenue 180 feet northerly from the point of beginning, and thence

SOUTHERLY: by the easterly line of said Avenue 180 feet to the point of beginning.

Or however otherwise bounded and described. Containing sixty-three thousand seven hundred and seventy-five (63,775) square feet, more or less, according to a plan made by Fuller and Whitney dated August 11, 1884, and recorded with the Norfolk County Registry of Deeds in Book 559, Page 392.

PARCEL TWO (124 Holland Road):

A certain parcel of land, with the improvements thereon, situated on Fisher Avenue, Brookline, Massachusetts, and shown as the lot marked "C" on a plan entitled "Plan of Land in Brookline, Mass." by E. Worthington, Engineer, dated July 15, 1926, recorded with Norfolk County Registry of Deeds, Book 1707, Page 513, bounded and described as follows:

NORTHERLY by Holland Road by two measurements, 260.70 feet and 102.00 feet;

EASTERLY by land now or formerly of Herbert T. Boardman shown as the lot marked "D" on said plan 267.37 feet;

SOUTHERLY by Tract II herein, 298.18 feet;

WESTERLY by Fisher Avenue, 323.75 feet;

NORTHWESTERLY by the curve forming the southeast corner of said Holland Road and Fisher Avenue, 23.84 feet;

All as shown on said plan and containing 105,081 square feet of land, according to said plan.

EXHIBIT A-2

PARCEL I - Tract I (124 Fisher Avenue):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

EASTERLY on Fisher Avenue, one hundred and fifty (150) feet;

NORTHERLY on land now or formerly of Montrose Foundation, Inc., one hundred and sixty (160) feet;

WESTERLY on lot marked "27,329 S.F." on said plan, one hundred eighty and 80/100 (180.80) feet;

SOUTHEASTERLY on land now or formerly of the Sisters of the Holy Cross Inc., seventy seven and 15/100 (77.15) feet; and

SOUTHERLY on the same, eighty-nine and 27/100 (89.27) feet.

Containing twenty-five thousand and eighty-nine (25,089) square feet of land, more or less, according to said plan.

PARCEL II - Tract II (146 Hyslop Road):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

WESTERLY on Hyslop Road by two curved lines, one measuring eighty-one and 6/100 (81.06) feet, the other measuring thirty-eight and 68/100 (38.68) feet;

NORTHERLY by two lines, one measuring thirty-five and 38/100 (35.38) feet, the other measuring one hundred (100) feet;

EASTERLY by a line, one hundred and eighty and 80/100 (180.80) feet;

SOUTHEASTERLY by a line, forty-eight and 30/100 (48.30) feet; and

SOUTHWESTERLY on land now or formerly of Judith Sprague, one hundred eighty- two and 53/100 (182.53) feet.

Containing twenty-seven thousand three hundred twenty-nine (27,329) square feet of land, more or less, according to said plan.

PARCEL III (110 Fisher Avenue):

BEGINNING at the northeasterly corner of the granted premises at a stone bound set in the southwesterly sideline of Fisher Avenue as shown on a plan hereinafter mentioned;

SOUTH 26° 17' 50" EAST by Fisher Avenue 120.00 feet to a point at remaining land of the Commonwealth of Massachusetts; thence

SOUTH 63° 42' 10" WEST by said land of the Commonwealth of Massachusetts 357.80 feet to a point at land now or formerly of Frank R. and Etta P. Pratt; thence

NORTH 39° 28' 50" EAST by said land of Pratt 168.59 feet to a stone bound; thence

NORTH 39° 29' 50" EAST 86.35 feet to a stone bound; thence

NORTH 39° 48' 50" EAST 39.39 feet to a stone bound; thence

NORTH 64° 02' 30" EAST 89.29 feet to the bound first mentioned and the point of beginning.

Containing twenty-six thousand nine-hundred fifty-one (26,951) square feet and being shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Water Division, Land in Brookline to be conveyed to Sisters of the Holy Cross of Massachusetts, The Archbishop Cushing College," dated September 16, 1958, Harold J. Toole, Director of the Water Division and Chief Water Supply Engineer, recorded with said Registry in Book 3700, Page 525.

Excluding so much of the premises that was conveyed by deed from Newbury College, Inc. to Syroos Sanicoff and Ronni M. Sanicoff dated April 28, 2003 and recorded in Book 18778, Page 143, which included the following parcel of land:

A certain parcel of land, now known as and numbered 154 Hyslop Road in said Brookline, shown as Lot A on a plan dated October 10, 2002 and entitled "Subdivision Plan of Land in Brookline, Massachusetts, Norfolk County, I. F. Hennessey Co.", recorded with said Registry as Plan No. 264 of 2003 in Plan Book 507, containing four thousand three hundred and forty-seven (4,347) square feet(+/-) of land.

PARCEL IV (150 Fisher Avenue):

Tract I:

Lot B on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 32,625 square feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.

Tract II:

Lot A on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 28,510 feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.

EXHIBIT A-3

125 HOLLAND

The premises at 125 Holland Road, Brookline, Massachusetts bounded and described as follows:

BEGINNING at a stone bound on the easterly side of Fisher Avenue about 15 feet northwesterly of Holland Road; thence running

NORTHWESTERLY	on said Fisher Avenue 127.50 feet; thence turning at a right angle and running
EASTERLY	by land now or late of Curtis and land now or late of Nash on two courses 215.82 feet and 53.10 feet; thence turning and running
SOUTHERLY	by land now, or late of Curtis 157.08 feet to Holland Road; thence turning and running
WESTERLY	on said Holland Road 224.12 feet to a stone bound, thence turning and running
NORTHERLY	on the street line 23.33 feet of beginning.

Containing 37,930 square feet of land, more or less, and being shown on plans by Ernest W. Bowditch, Engineer, recorded with said Registry in Book 807, Page 458; Book 1007, Page 553; and Book 1081, Page 378.

EXHIBIT B – CONCEPT SITE PLAN AND BUILDING MASSING



Landscape Plan- Draft



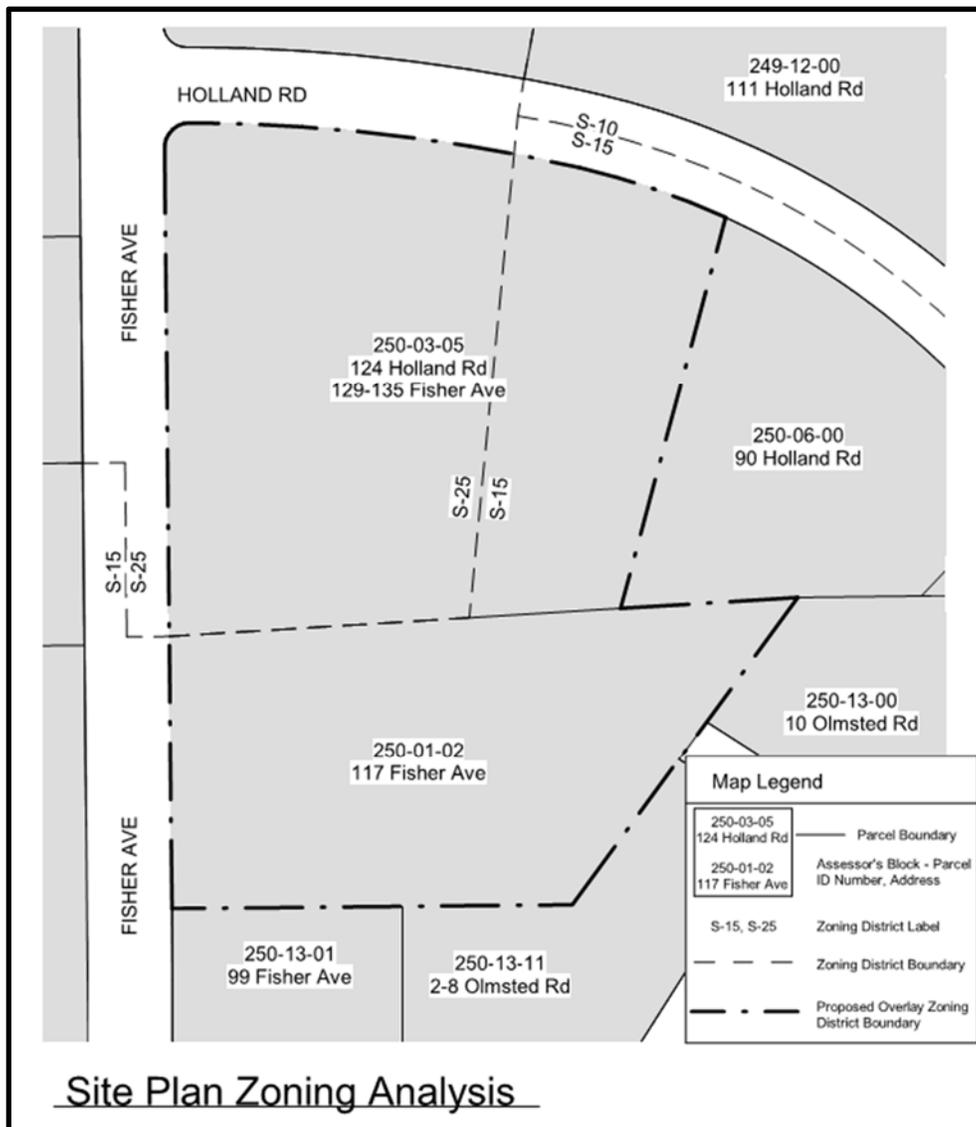
EXHIBIT C – Proposed Project Zoning Article

Petitioner: Paul Saner, on behalf of the Newbury Zoning Committee

Article ___: Fisher Hill Special Overlay District Zoning

To see if the Town will amend the Zoning By-Law and Zoning Map as follows:

- 1. By adopting the following map change, adding a Fisher Hill Special Overlay District as shown below, including: parcels with Tax Parcel Identifications 250-03-05 (124 Holland Road and 129-135 Fisher Avenue) and 250-01-02 (117 Fisher Avenue).**



2. By amending Section 3.01.4 by adding a new item at the end:

“g. Fisher Hill Special Overlay District”

3. By amending Section 4.07 – Table of Use Regulations – to allow for life care facilities on lots less than 5 acres but greater than 3 acres in the overlay district, by adding a sentence at the end of the description of Use 6A in the Use Table, underlined below:

Use 6A, Life care facilities, incorporating independent apartment living units for elders combined with supportive medical, nursing or other shared facilities.

*Allowed by special permit only on lots greater than 5 acres, but within the Fisher Hill Special Overlay District, the minimum lot size shall be 3 acres.

4. By amending Section 5.01 – Table of Dimensional Requirements – by adding Footnote 22 after the words “Any other structure or principal use” in the rows for the S-25 and S-15 Districts, which Footnote 22 shall also be added at the end of the Table and read as follows:

“22. See Section 5.06.4 – Special District Regulations, subsection l. Fisher Hill Special Overlay District with respect to uses and all dimensional requirements.”

5. By amending Section 5.06.4 – Special Districts – by adding a new item as follows:

“l. Fisher Hill Special Overlay District

1) It has been determined through study of the former Newbury College campus that the potential exists for careful, planned redevelopment. It has further been determined that, due to the surrounding residential development pattern, and the municipal need for housing for an aging population, assisted living residential uses in a life care facility designed with a similar architectural character as the neighborhood are appropriate. Benefits to the community include maintenance for adaptive reuse of the Mitton House and creating a public easement along Fisher Avenue to preserve mature shade trees, and are significant reasons for why additional density may be allowed by Special Permit under the criteria of this section.

2) At any point prior to December 31, 2020, an applicant may seek relief by Special Permit under this Overlay District by completing the Design Review preapplication process as set forth in Section 5.09 (3)(a)(2) provided the proposed project includes the following requirements and limitations:

a. *Includes a minimum of three acres of contiguous land.*

b. *Includes a life care facility with a maximum of 160 units as its primary use including all related accessory uses.*

3) *The Board of Appeals may grant a Special Permit under this section allowing for a project that meets the following requirements and limitations. Conformance with said requirements and limitations shall be made conditions of the Special Permit.*

a. *Open Space*

i. *The project must dedicate a minimum of 40% of lot area towards Open Space. For the purposes of this requirement, Open Space shall include parts of a lot at ground level that are contiguous landscaped areas and walkways that include planted containers, landscaped beds, and/or street trees. Usable open space is not a requirement for this use.*

ii. *The open space requirements of **Table 5.01 — Table of Dimensional Requirements** may be reduced in accordance with Site Plan Review as noted in **Section 5.06.4.1.4** below.*

b. *Parking*

i. *98 parking spaces shall be provided with a minimum of 43 concealed.*

ii. *The number of parking spaces required per Article 6 of the Zoning By-Law may be reduced at the request of the applicant, following review of a parking study and favorable recommendation by the Planning Board.*

iii. *Parking area setback along the southern lot line shall be no less than 20 feet.*

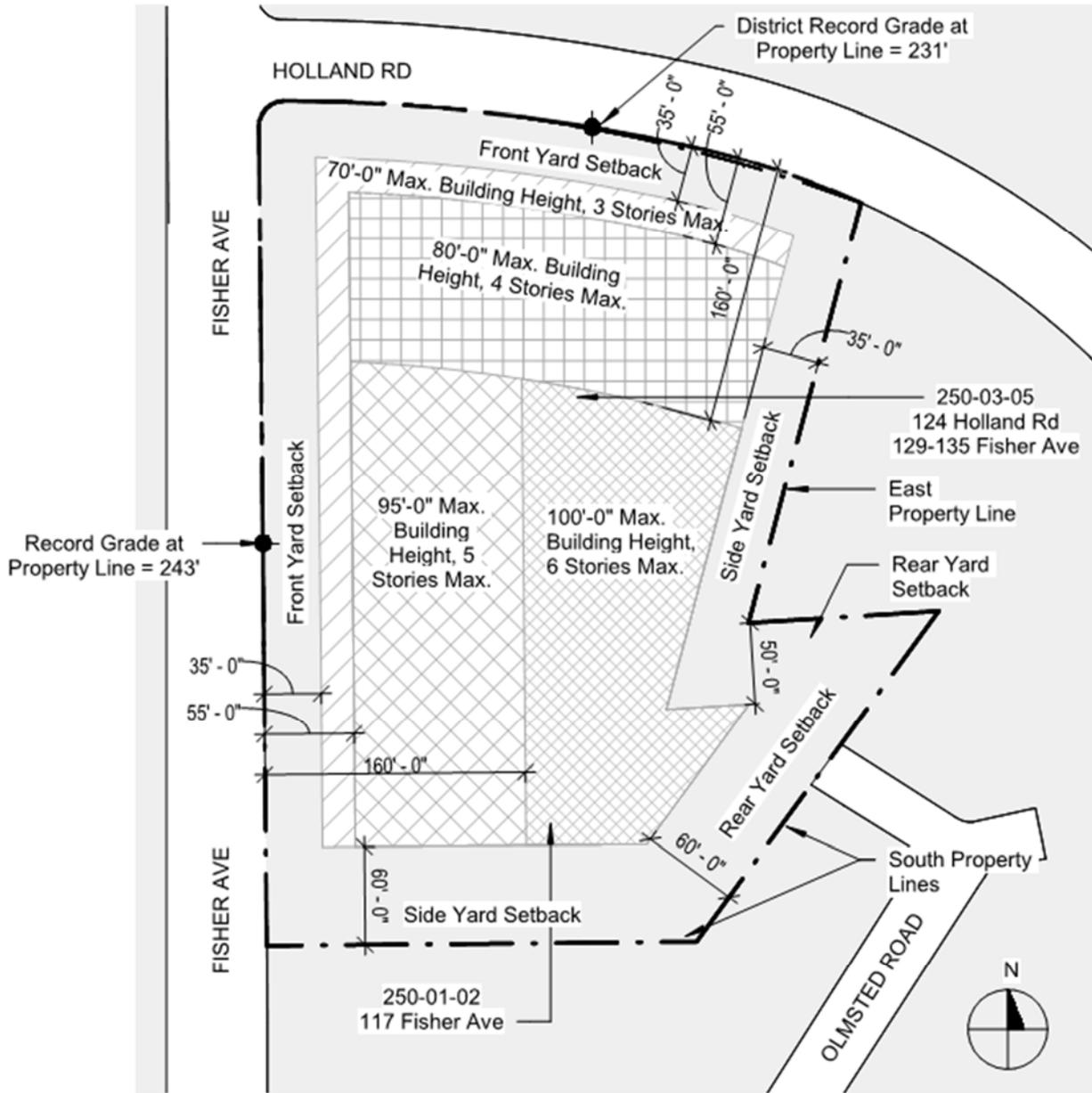
iv. *The parking and drive requirements under Section 6.04, including stall width and depth, aisle width, and width of entrance and exit drives, may be modified in accordance with Site Plan Review as noted in Section 5.06.4.1.4 below.*

v. *Once a minimum of five years have passed since the issuance of a Certificate of Occupancy for any project promulgated pursuant to a Special Permit granted under this Section, the holder of said Special Permit may seek modification of the Special Permit to allow the provision of fewer than 98 spaces, but only through a reduction in the number of non-concealed parking spaces and only*

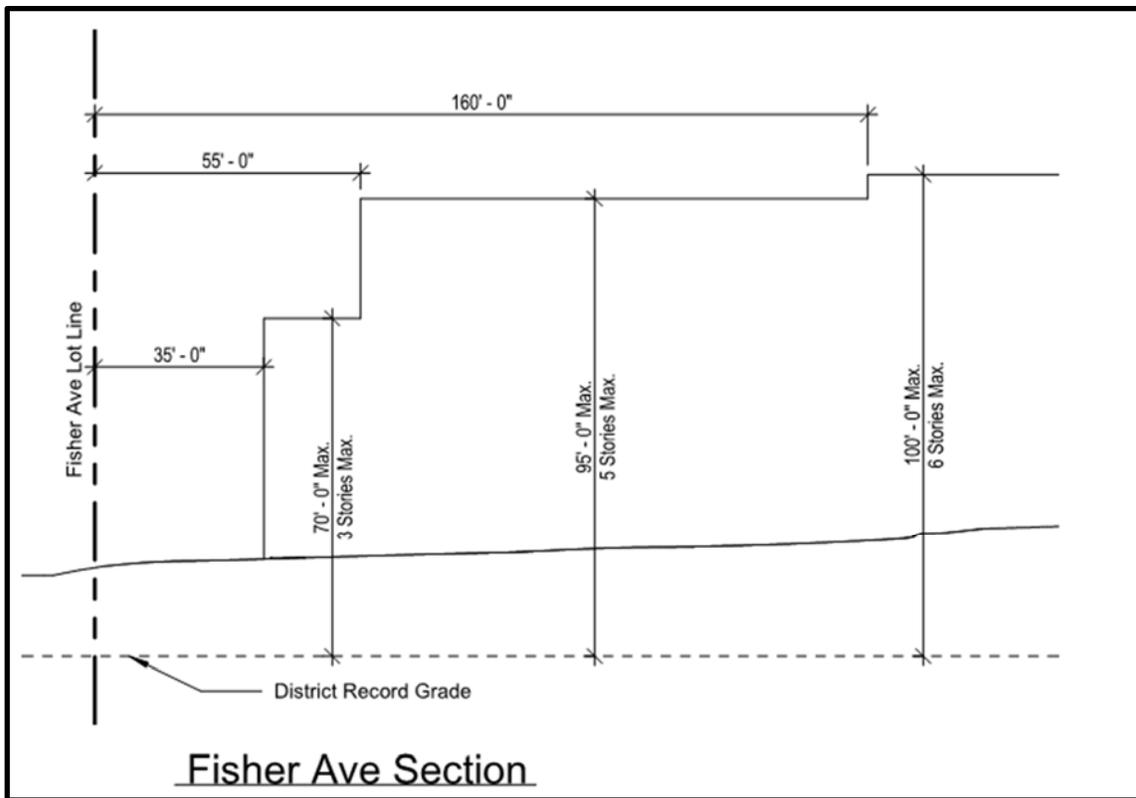
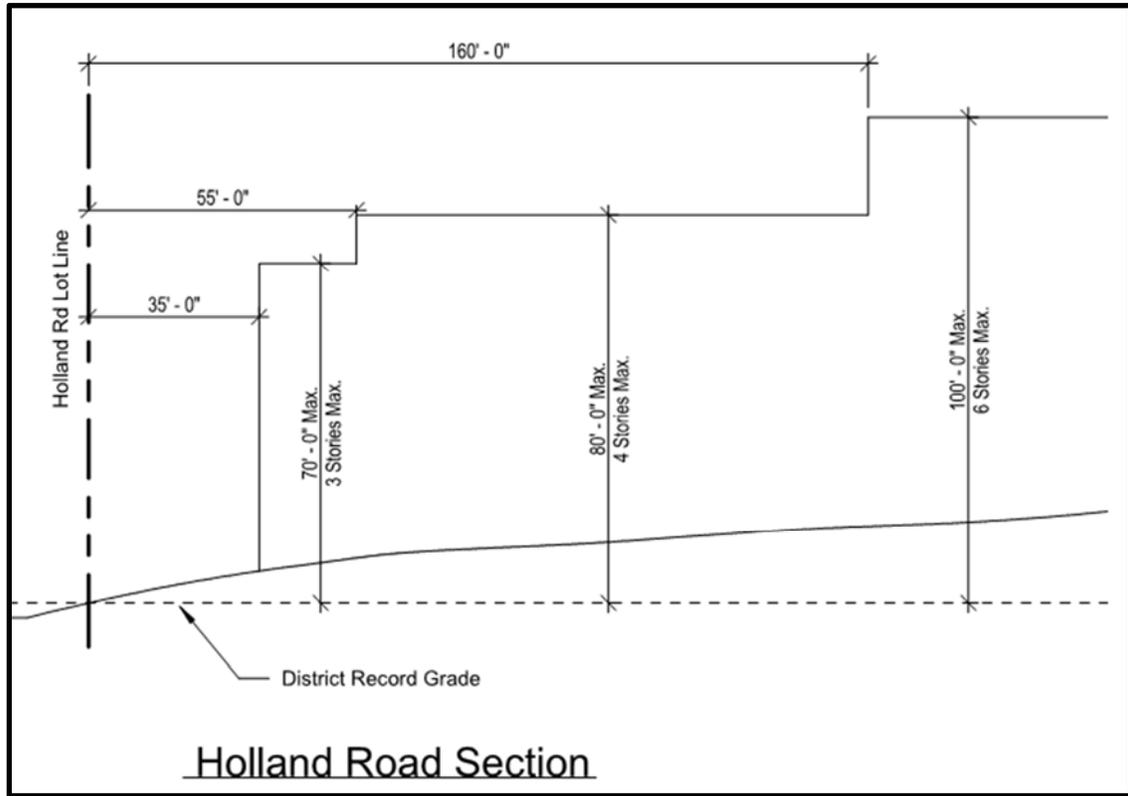
upon a showing to the Zoning Board of Appeals that such a reduction will not impact the neighborhood.

- c. The Gross Floor Area Ratio for a project permitted pursuant to this section shall not exceed 1.15.*

- d. The maximum building height shall be 70' and three stories max. for portions of a building that are within 55' of Fisher Avenue and Holland Road. The maximum building height shall be 80' and four stories max. for portions of a building that are within 160' of Holland Road. The maximum building height shall be 95' and five stories max for portions of a building that are within 160' of Fisher Avenue. Otherwise, the maximum building height is 100' and six stories max. The maximum number of stories does not include basements or means of egress. These maximum building heights do not include rooftop structures such as elevator penthouses, chimneys, mechanical equipment, and mechanical screens. Building heights shall be measured from the District Record Grade rather than as prescribed in Section 5.30. The District Record Grade shall be the record grade of the Holland Road property line at the midpoint of the Holland Road boundary of the Fisher Hill Overlay District. Refer to Building Height and Setback Diagram. The Board of Appeals may grant a Special Permit for projections into front yards that do not comply with Section 5.51.*



Building Height & Setback Diagram



- e. *The residential component of the project shall not include more than 160 living units. All 160 units may be market-rate.*

- f. *Notwithstanding anything to the contrary in Section 4.08, for the purposes of satisfying the requirements of Section 4.08 the applicant may provide eighteen (18) affordable units off-site within 100 yards of the boundary line of this overlay district or make a cash payment not to exceed Six Million Five Hundred and Twenty Five Million Dollars (\$6,525,000).*

- g. *Building setback requirements shall be as follows:
From Fisher Avenue, no less than 35 feet;
From Holland Avenue, no less than 35 feet;
From east side lot line, no less than 35 feet;
From southern side and southern rear lot lines, no less than 60 feet;
From the rear lot line, no less than 50 feet.
Refer to Building Height and Setback Diagram.*

- h. *Accessory Structures allowed within the site setbacks include retaining walls, fencing, and utility equipment- ie generator and transformer. Setback for all structures is 6' min. from any lot line. Where required for emergency vehicle access, retaining walls and fencing can encroach on front yard setbacks.*

- i. *Notwithstanding the provisions of Section 6.06.6, the number and size of required loading zones may be reduced in accordance with Site Plan Review as noted in Section 5.06.4.1.4 below. If the loading zone includes an area for trash and recycling this area for trash and recycling shall be enclosed. If the entire loading zone including the area for trash and recycling is fully enclosed, such area shall not count towards the project's total gross floor area.*

- j. *Design Standards: During their review of all proposed building designs, both the Design Advisory Team and Planning Board shall consult the Fisher Hill Special District Design Guidelines developed by the Newbury Zoning Committee for guidance on general exterior massing, scale and design.*

4) *Any application including new structures that seeks relief under this Overlay District shall:*

a. be subject to Site Plan Review by the Planning Board to ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian, bicycle and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish and recycling removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:

i. Demonstrated design compliance with any General By-Law related to erosion and sediment control and stormwater management;

ii. Property lines and physical features, including roads, driveways, parking for vehicles and bicycles, loading areas and trash storage for the project site; and

iii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, and exterior lighting.

b. be deemed a Major Impact Project with respect to Section 5.09, Design Review.

c. include as a condition of the special permit a Transportation Access Plan Agreement (“TAPA”) approved by the Director of Transportation that includes Transportation Demand Management (“TDM”) programs.

5) *Allowing the additional density through the Special Permit contemplated by this Section has a potential benefit contemporaneous with its inclusion in the By-Law.*

However, planning objectives potentially achieved by this Section may not be met if substantial time elapses. Therefore, if upon closing the public hearing on the Special Permit contemplated herein, the Board of Appeals finds: (a) more than two years has elapsed since the opening of the public hearing; and (b) the amount of elapsed time is, in the discretion of the Board, excessive and contravenes the planning objectives of this Section, the Board may deny the request for a Special Permit.

6. By amending Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements – by adding a new footnote as follows:

*“4. For the Fisher Hill Special Overlay District, parking requirements shall be no less than 0.5 space per unit. **Section 6.02.2.h** shall not apply”.*

7. By amending Section 7.07 – Sign By-Law – Exceptions to the Above – by adding to Section 7.07.1 a new item at the end:

“f. The Board of Appeals may by special permit grant relief to the requirements of Section 7.01 for signage for the buildings in the Fisher Hill Special Overlay District subject, however, to compliance with the Design Review Procedures set forth in Section 7.08 and the Design Guidelines adopted for this district.”

...or act upon anything else relative thereto.

EXHIBIT D -

TAX CERTAINTY AGREEMENT – March 5, 2020 version

**IN RE: The parcels known as 117 Fisher Avenue (Assessors' Parcel I.D. No. 250-01-02) and
124 Holland Road (Assessors' Parcel I.D. No. 250-03-05)
BROOKLINE, MASSACHUSETTS
TAX CERTAINTY AGREEMENT**

This Agreement between WELLTOWER INC. a Delaware corporation, having an office at 4500 Dorr Street, Toledo, Ohio 43615 (“Welltower”; Welltower and its successors and assigns in title or interest the Premises are hereinafter collectively referred to as “Developer”) and the Town of Brookline, a municipal corporation (“Town”), located in Norfolk County, Massachusetts and acting by and through its Select Board (the “Board”), (Developer and the Town being collectively referred to as the “Parties”) is executed this ___ day of _____, ____ (the “Execution Date”), and made effective upon the date this Agreement is recorded in the Norfolk County Registry of Deeds and Norfolk Registry District of the Land Court (the “Effective Date”), upon the mutual promises and obligations hereinafter set forth and additional consideration which the parties acknowledge is adequate and appropriate, upon the following terms and conditions:

PREAMBLE

WHEREAS, the Town through its comprehensive plan seeks to encourage the redevelopment of underutilized, vacant and/or abandoned buildings and land in the town and specifically at the former Newbury College site and to be assured that such redevelopment results in the improvements remaining as taxable properties within the Town to help protect the Town’s existing property tax revenue; and

WHEREAS, Welltower owns the parcels of real property known as and numbered as 117 Fisher Avenue (Parcel I.D. No. 250-01-02) and 124 Holland Road (Parcel I.D. No.250-03-05) sometimes collectively referred herein collectively as the “East Parcel”, which was acquired by Developer pursuant to that certain Quitclaim Deed dated September 5, 2019 recorded with the Norfolk Registry of Deeds (the “Registry”) in Book 37136, Page 283, the legal descriptions of which are attached hereto as Exhibit A, which as of the date hereof consists of a several buildings and a parking lot;

WHEREAS, Welltower, Welltower TRS Holdco LLC, a Delaware limited liability company and the Town are parties to that certain Memorandum of Agreement by and between the Town of Brookline and Welltower Inc. and Welltower TRS Holdco LLC, dated as of [____], 2020 and recorded in the Registry in Book [____], Page [____] (the “Memorandum of Agreement”); Capitalized terms used in this Agreement and not otherwise defined shall have their respective meanings as set forth in the Memorandum of Agreement;

WHEREAS, as of the Effective Date, each of the Town Meeting Approval Conditions and Special Permit and Other Required Approvals have occurred and/or have been satisfied;

WHEREAS, in accordance with and pursuant to the Memorandum of Agreement, Developer and the Town agree to execute this Agreement as of the date hereof and record a copy thereof in the Registry;

WHEREAS, the Town and Developer seek to confirm their shared commitment to keeping the Premises upon which the Project may be constructed as a taxable parcel notwithstanding that by virtue of its potential use, it may become exempt from the payment of real estate taxes as nontaxable real property under Massachusetts General Laws, Chapter 59, §5, Clause Third or other applicable exemption; and

WHEREAS, for the reasons stated above and pursuant to the terms of this Agreement, the Town and Developer have agreed that Developer to the Premises will make certain voluntary payments to the Town in certain circumstances in lieu of real estate taxes, as more particularly set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Developer and the Town agree as follows:

1. Developer Commitment to Voluntary Payment to the Town. Commencing with the first fiscal tax year following the Assessment Date, and ending ninety-five (95) years after the Effective Date of this Agreement (the “Term”), if and to the extent Developer is not otherwise obligated to pay real estate taxes for the Premises by virtue of the Premises being used for one or more Exempt Uses or Developer’s tax-exempt status (the “Payment Conditions”), then, with respect to any fiscal tax year for which the Payment Conditions are satisfied Developer shall make a direct financial contribution to the Town in the amount equal to the real property taxes that would otherwise have been levied by the Town for all or any portion of the Premises were the Premises not used for one or more Exempt Uses or were Developer not precluded, based on its status, from the payment of real estate taxes under applicable law in such relevant fiscal tax year (the “Voluntary Payment”). In such event, the Town shall accept the Voluntary Payment in full satisfaction of Developer’s obligations to make payments to the Town under this Agreement and/or applicable law (whether now in effect or, subject to Section 2, hereafter amended or adopted) on account of the Premises being used for an Exempt Use or Uses. As used herein the term “Assessment Date” shall mean January 1st or another date on which the Town Assessors by statute make the first determination of the value of real property following the Effective Date. As used herein the term “Exempt Use” or “Exempt Uses” shall mean those uses of real property that render such property eligible for exemption from real property taxation pursuant to Massachusetts General Laws Chapter 59, Section 5, Clause Third or other similar law, whether currently in existence or adopted during the Term of this Agreement.

2. Payment of the Voluntary Payment to the Town. The Voluntary Payment shall be paid to the Town in quarterly installments on the date real property taxes are due for each fiscal tax year during the Term for which the Payment Conditions are satisfied, and the Town shall provide Developer with a written statement of the portion of any Voluntary Payment due not less than thirty (30) days prior to the due date. Developer shall have the right to contest the amount of the Voluntary Payment on the basis of over valuation or disproportionate valuation in comparison to similar properties, provided Developer shall, before commencing legal action, first use good faith efforts to mediate the issue of valuation with the Town’s Assessors.

3. Termination of Agreement. The Town or Developer shall have the right to terminate this Agreement by, and effective upon, written notice of such termination delivered to the other in accordance with Section 8, in the event that, at any time after the Effective Date the federal or state laws, regulations, ordinances and/or other government requirements applicable to the payment by Developer of taxes, similar assessments or payments in lieu of such taxes on the Premises used for one or more Exempt Uses and/or any judicial or administrative interpretation of any of them (other than by the Town), change in any manner, the direct or indirect effect of which is to change the terms, conditions, and/or benefits of this Agreement in any way that is materially adverse to the Town or Developer, with the exception of a change that would have the effect of expanding the uses covered by the term “Exempt Uses”. This Agreement shall not in any manner whatsoever restrict the Town’s exercise of its police power. Upon transfer of title of the Premises, the grantor Developer’s obligations under the Agreement shall automatically terminate and the grantee Developer (e.g., the successor owner of the Premises) shall be bound by the terms of this Agreement as more particularly described in Section 8(j) of this Agreement.

4. Period of Restrictions. It is the intent of the parties that the restrictions set forth herein be imposed for the duration of the Term, and Developer hereby agrees and acknowledges that (a) the restrictions set forth herein shall not be deemed to be “unlimited as to time” within the meaning of Massachusetts General Laws, Chapter 184, Section 23, (b) prior to the expiration of the initial thirty (30) years of the Term and prior to the expiration of any subsequent renewal period, this Agreement and the restrictions set forth herein may be renewed by the Town from time to time thereafter for additional periods not in excess of twenty (20) years each, such renewal to be effectuated in accordance with the provisions of Massachusetts General Laws, Chapter 184, Section 27 (as may be amended from time to time) or any successor statute.

5. Representations as to Authority.

i. The Town’s Authority. As of the Execution Date, the Town represents that it is duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite municipal power and authority under the Town’s Bylaws and under the laws of Massachusetts to execute, deliver, perform and be bound by this Agreement. The Town represents that (i) the individuals executing and delivering this Agreement on the Town’s behalf are the incumbents of the offices stated under their names, and such offices have been duly authorized to do so by all necessary municipal action taken by and on the part of the Town, (ii) the Agreement has been duly and validly authorized, executed and delivered by the Town, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction, the Agreement constitutes the valid and binding obligation of the Town, enforceable against the Town in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against the Town, the Town agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

ii. Developer’s Authority. As of the Execution Date, Developer represents that it is duly organized, validly existing and in good standing under the laws of the State of its incorporation, that it is qualified to do business in, and in good standing under the laws of, the State of Massachusetts and that has all requisite power and authority to execute, deliver, perform and be bound by this Agreement. Developer represents that (i) the individual executing and

delivering this Agreement on Developer's behalf has the authority to do so, and such signing authority has been authorized by all necessary corporate action taken by and on the part of Developer, (ii) the Agreement has been duly and validly authorized, executed and delivered by Developer, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction, the Agreement constitutes the valid and binding obligation of Developer, enforceable against Developer in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against Developer, Developer agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

6. Lien/Collection Remedies. Upon the failure of Developer to make any Voluntary Payment to the Town when the Payment Conditions were otherwise satisfied, the Town may take whatever action it deems feasible to collect said payment whether in law or equity. The parties agree that the Voluntary Payment may constitute a fee for collection proceedings and may constitute a lien on the property for collection purposes. Within no more than ten (10) days following written request from time to time to the Town Tax Collector, the Tax Collector shall provide Developer (e.g., the record owner of the Premises) with a written statement to Developer and any potential purchaser of or lender to the Premises certifying Developer's and the Town's compliance with this Agreement as of said date and otherwise stating any amounts due and payable and the amount of the Voluntary Payment.

7. Deed Reference and Affirmation of Successor In Title. Developer agrees that during the Term each successive deed of the Premises executed and delivered by the grantor shall contain the following statement:

“Reference is made to that certain Tax Certainty Agreement by and between Developer and the Town of Brookline dated _____, _____, recorded with Norfolk County Registry of Deeds in Book _____, Page _____ (together with all amendments duly made and recorded, the “Tax Certainty Agreement”). By acceptance and recording of this deed, the Grantee (i) acknowledges and accepts the Tax Certainty Agreement, (ii) acknowledges that Grantor is hereby released in full from all obligations of “Developer” under the Tax Certainty Agreement and (iii) agrees that the Tax Certainty Agreement shall be binding and enforceable against the Grantee in accordance with its terms.”

Developer and such successors in title shall notify the Town in the manner provided in Section 8(j) hereof of the conveyance of the Premises and shall provide the Town with a copy of the deed evidencing the same conforming to this Section 7.

8. Miscellaneous Provisions.

(a) **Notices.** All notices, consents, directions, approvals, waivers, submissions, requests and other communications under this Agreement shall be effective only if made in writing with all delivery charges prepaid by a method set forth below, shall be effective at the times specified below, and shall be addressed to:

If to Developer:

Welltower Inc.
4500 Dorr Street
Toledo, OH 43615
Attention: General Counsel

With a copy to:

Jennifer Dopazo Gilbert, Esq.
Law Office of Robert L. Allen Jr., LLP
300 Washington Street
Brookline, MA 02445

If to the Town:

Town of Brookline
Attn: Town Administrator
Brookline Town Hall
333 Washington Street
Brookline, MA 02445

With a copy to:

Town of Brookline
Attn: Town Counsel
333 Washington Street
Brookline, MA 02445

___ By commercially recognized overnight or expedited commercial courier service, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the delivery receipt;

___ By hand delivery, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the messenger's receipt; or

___ By US certified or registered mail, return receipt requested, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the return receipt.

Any party may change or add to the addressees and/or addresses for notice by giving notice of such change or addition to the other party in accordance with this paragraph.

(b) Severability/Captions. The provisions of this Agreement are severable and, if any provision, or any portion thereof, is deemed by a court or arbitrator of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, the remaining provisions, or remaining portions thereof, shall remain valid and enforceable to the fullest extent permitted by law, provided that (as determined by agreement of the parties or by a court or arbitrator of competent jurisdiction) such continuing validity and enforceability results in neither the loss of any material benefit to, nor the increase of any material burden on, either party or both of them, as such benefits and burdens are originally provided in this Agreement. If this Agreement

is terminated or rendered of no effect due to the invalidity, illegality, or unenforceability of any of its provisions, those Developer obligations that otherwise would survive the Term shall end. The captions used in this Agreement are for convenience only and shall not be deemed to have any relevance to the meaning of any of the provisions.

(c) Waivers/Time of Essence. The provisions and any breach of this Agreement shall not be waived, except expressly in writing signed by the waiving party. A waiver on one occasion or of one provision or breach shall not constitute a waiver on another occasion or of another provision or breach. Time is of the essence of this Agreement.

(d) Amendments. This Agreement shall not be amended unless such amendment shall be expressly agreed in writing executed by duly authorized representatives both parties.

(e) Whole Agreement/Survival. This Agreement supersedes any previous negotiations or agreements between the parties to this Agreement, whether oral or in writing, in relation to the matters dealt with herein and represents the entire agreement between the parties in relation thereto. The provisions of this Agreement that, by their specific terms apply after the Term shall, except as provided in Sections 5 and 9, survive the Term for so long as applicable; and all of the provisions of this Section 9 shall also survive the Term in relation to any of this Agreement's other surviving provisions.

(f) Real Property. All references in this Agreement to real property or property owned by or of Developer shall be deemed to mean fee ownership of the Premises, including fixtures and/or improvements thereto and any use and/or occupancy of the Premises, including leases, which would affect the determination of whether the property is exempt or taxable by the Town.

(g) Reservations. The Town and Developer agree that this Agreement provides the Town with protection of its tax base, but nothing in this Agreement in any way restricts the Town's complete discretion in the exercise of its police power or imposes any restrictions on Developer's complete discretion to determine whether and how the Premises shall be developed and improved and the use of the Premises and whether the Premises shall be reserved for, converted to, or acquired for, one or more Exempt Uses and/or taxable purposes, taking into account economic conditions from time to time, relevant site constraints of development and any and all other considerations it desires. The Town and Developer each reserves all of its respective positions, rights and remedies at law and equity in connection with real estate taxes and exemptions in the event of the termination, expiration or inapplicability of this Agreement. Developer is entering into this Agreement voluntarily; and nothing in this Agreement or Developer's performance of its covenants hereunder shall be construed for any purposes whatsoever to constitute an acknowledgement by Developer of any regulatory, statutory or contractual obligation to make the Voluntary Payment or any other payment to the Town on account of real property owned by Developer for Exempt Purposes, beyond the explicit contractual commitments voluntarily made by Developer under, and subject to all of the terms and conditions of, this Agreement.

(h) Counterparts. This Agreement may be executed by the parties hereto in multiple separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument of which there may be multiple originals.

(i) Applicable Law. This Agreement shall be governed by, and construed accordance with, the laws of The Commonwealth of Massachusetts for all purposes, without regard to any such laws governing choice of law.

(j) Successor In Title. This Agreement shall bind Developer and its successors and assigns in title to the Premises and shall be deemed to “run with the land” for the duration of the Term. Any Developer, as grantor of title to the Premises, shall be released from all obligations as “Developer” under this Agreement upon the execution by such Developer, and subsequent recordation in the Registry, of any deed transferring title of the Premises (a “Premises Deed”), which Premises Deed shall include the paragraph required pursuant paragraph 7 above. Simultaneously with the recording of a Premises Deed in the Registry, either grantor or grantee thereunder shall provide written notice to the Town of the recording of such Deed, the transfer of title to the Premises, and the notice addresses for grantee thereunder for purposes of notices under this Agreement, including, without limitation, Section 8(a).

(k) Recording. This Agreement shall be recorded at the Norfolk County Registry of Deeds and Norfolk Registry District of the Land Court.

IN WITNESS whereof the parties have executed this Agreement under seal as of the Effective Date.

Welltower Inc.

Town of Brookline
Select Board:

By _____

Hereunto duly authorized

Date: _____

Hereunto duly authorized
Date:

County of Lucas

State of Ohio

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ of Welltower Inc. as _____ of _____ through satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose..

Notary Public

Personally Known _____
Produced Identification _____
Expires: _____
Type of Identification _____

My Commission

Exhibit A

PARCEL ONE (117 Fisher Avenue):

BEGINNING at a monument in the easterly line of Fisher Avenue, thirteen hundred six (1,306) feet from Boylston Street at the northwest corner of the land conveyed to the Inhabitants of the Town of Brookline by Horace N. and John H. Fisher, thence

NORTHEASTERLY: on said land at right angles with said Avenue, 264.02 feet to a monument; thence

NORTHERLY: on said land 250.76 feet to a monument at a point where the fence bounding said land as it now runs makes an angle; thence

SOUTHWESTERLY: by a straight line drawn 414.92 feet to a point in the easterly line of said Avenue 180 feet northerly from the point of beginning, and thence

SOUTHERLY: by the easterly line of said Avenue 180 feet to the point of beginning.

Or however otherwise bounded and described. Containing sixty-three thousand seven hundred and seventy-five (63,775) square feet, more or less, according to a plan made by Fuller and Whitney dated August 11, 1884, and recorded with the Norfolk County Registry of Deeds in Book 559, Page 392.

PARCEL TWO (124 Holland Road):

A certain parcel of land, with the improvements thereon, situated on Fisher Avenue, Brookline, Massachusetts, and shown as the lot marked "C" on a plan entitled "Plan of Land in Brookline, Mass." by E. Worthington, Engineer, dated July 15, 1926, recorded with Norfolk County Registry of Deeds, Book 1707, Page 513, bounded and described as follows:

NORTHERLY by Holland Road by two measurements, 260.70 feet and 102.00 feet;

EASTERLY by land now or formerly of Herbert T. Boardman shown as the lot marked "D" on said plan 267.37 feet;

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SOUTHERLY by Tract II herein, 298.18 feet;

WESTERLY by Fisher Avenue, 323.75 feet;

NORTHWESTERLY by the curve forming the southeast corner of said Holland Road and Fisher Avenue, 23.84 feet;

All as shown on said plan and containing 105,081 square feet of land, according to said plan.

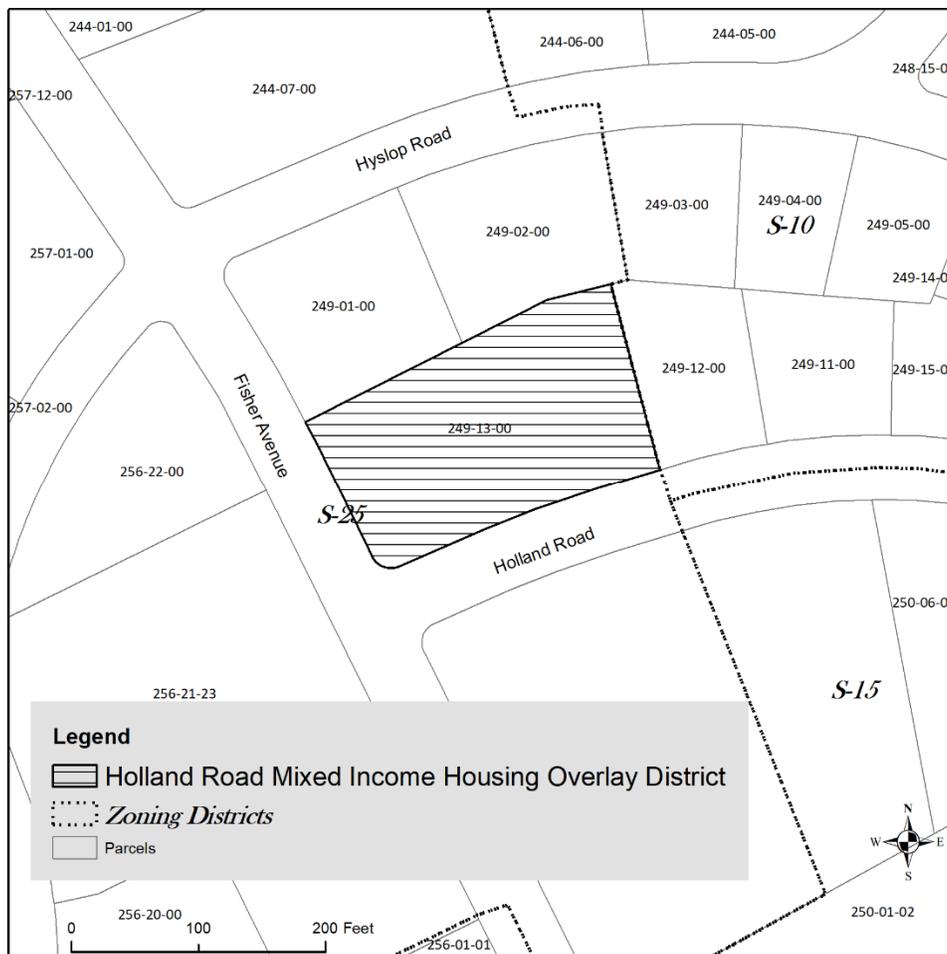
Exhibit E – 125 Holland Zoning Article

Petitioner: Paul Saner, on behalf of the Newbury Zoning Committee

Article ____: Holland Road Mixed Income Housing Overlay District

To see if the Town will amend the Zoning By-law and Zoning Map as follows:

- 1. By adopting the following map change: adding a Holland Road Mixed Income Housing Overlay District including the parcel located at 125 Holland Road (Tax Parcel Identification #s 249-13-00), as shown in the map below.**



- 2. By amending Section 3.01.4 by inserting a new item “h” as follows:**

h. Holland Road Mixed Income Housing Overlay District

3. By amending Section 5.06.4 by inserting a new item “m” as follows:

m. Holland Road Mixed Income Housing Overlay District

- 1) It is found that the parcel of land at 125 Holland Road, formerly a part of the Newbury College campus (the “Site”) has been identified by the Newbury Zoning Committee, based on a recommendation from the Housing Advisory Board, as an appropriate site for mixed-income affordable housing development. For this reason, a developer may opt to develop the Site in accordance with the requirements of this overlay district.
- 2) Any applicant may seek relief under this overlay, provided the applicant’s proposed development meets the following requirements:
 - a. It contains 18 Dwelling Units, contained in a single building.
 - b. Six (6) of the Dwelling Units on the Site must be Affordable Units (as defined in Section 4.08.2.c.) for households with incomes up to 80% of Median Income, defined in accordance with Section 4.08.2.f and which must also qualify for the Town’s Subsidized Housing Inventory as per Massachusetts General Laws Chapter 40B and 760 CMR 56. Six (6) of the Dwelling Units on the Site must be Affordable Units for households with incomes up to 100% of Median Income. Six (6) of the Dwelling Units on the Site must be Affordable Units for households with incomes up to 150% of Median Income.
 - c. It has a viable plan for maintaining affordability for the longest period permitted by law that has been approved by the Department of Planning and Community Development.
- 3) Multi-Family Dwellings. Superseding any conflicting restrictions in Section 4 of the Zoning Bylaw, any development proposed pursuant to the requirements of this overlay district:
 - a. may include Multi-Family Dwellings;
 - b. is not required to meet the requirements of Section 4.08, with the exception that the development must meet the “Standards” requirements listed under Section 4.08.6. With respect to the standard for unit sizes described in 4.08.6.c, any project proposed pursuant to this section will be deemed to meet the standard if the average unit size for the units with the

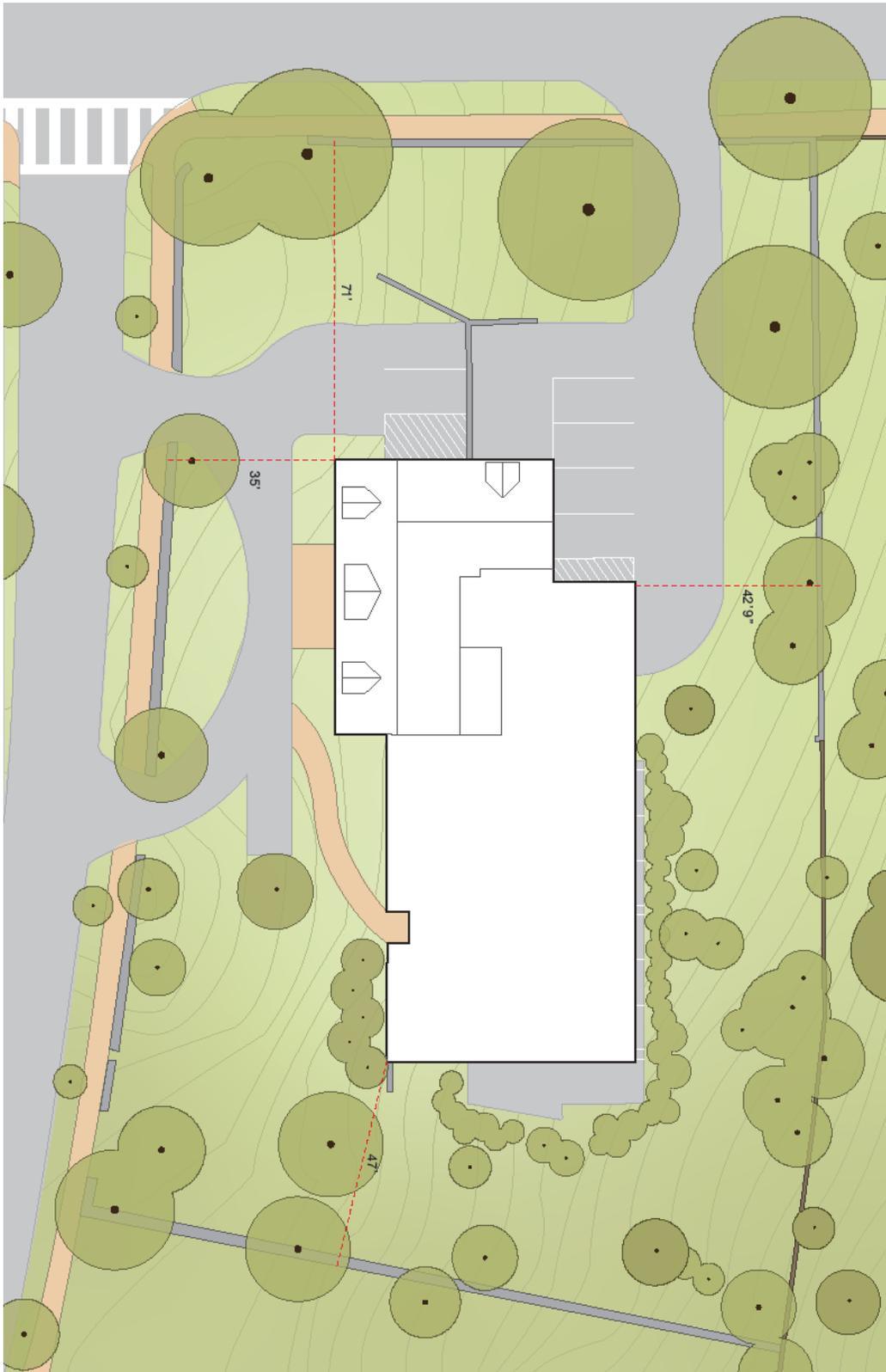
applicable bedroom count meets or exceeds the listed square footage, so long as no individual unit has less than 95% of the prescribed square footage.

- 4) All applications in the Holland Road Mixed Income Housing Overlay District shall be subject to §5.09, Design Review, including any applicable Design Guidelines adopted by the Planning Board. Further, the Zoning Board of Appeals shall be empowered to require such other conditions as it deems necessary to bring the project into conformance with the goals of this overlay district, including a modification of the affordability requirements in 5.06.4.m2.b. The Zoning Board of Appeals may only grant a modification of the affordability requirements in 5.06.4.m.2.b that raises the applicable Median Income levels following a favorable recommendation from the Housing Advisory Board and in no case shall the affordability requirements be modified to provide fewer than 4 Affordable Units for households with incomes up to 80% of Median Income and 4 Affordable Units for households with incomes up to 100% of Median Income, and in no case can any of the Affordable Units be available for households with incomes greater than 150% of Median Income.
- 5) Dimensional and Parking Requirements. Any development proposed pursuant to the requirements of this overlay district shall be subject to the dimensional requirements listed below, superseding any conflicting requirements in Sections 5 and 6 of the Zoning Bylaw for the underlying zoning district. Any dimensional requirements not specified below shall be required according to the requirements of the underlying zoning district.
 - a. Lot size. A minimum lot size of 35,000 square feet shall be required.
 - b. Floor Area Ratio. An overall maximum Floor Area Ratio of 0.5 shall be permitted.
 - c. Height. A maximum height of 40 feet, measured from the record grade of the midpoint of the lot line along Holland Road, shall be permitted.
 - d. Setbacks. A minimum Front Yard setback of 30 feet, a minimum Side Yard setback of 40 feet, and a minimum Rear Yard setback of 40 feet shall be provided. Relief from these setback requirements may be sought under Section 5.43.

- e. Open Space. A minimum amount of Landscaped Open Space of 40% of Gross Floor Area and a minimum amount of Usable Open Space of 10% of Gross Floor Area shall be provided.
- f. Parking. Parking shall be provided at a minimum rate of 1 space per Dwelling Unit.

Or take any action thereto.

Exhibit F – Conceptual Site Plan – 125 Holland



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Exhibit G – Deed Restriction

[TO BE INCLUDED PRIOR TO EXECUTION]

Exhibit H – Article for Town to Acquire West Parcels

Petitioner: Paul Saner, on behalf of the Newbury Zoning Committee

Article___: Authorization to Acquire Former Newbury College West Campus

To see if the Town will vote to authorize the Select Board to acquire, by purchase, gift, eminent domain or otherwise, in fee simple, the parcels of land located at 110 Fisher Avenue, 124 Fisher Avenue, 150 Fisher Avenue, and 146 Hyslop Road (Tax Parcel Identification #s 255-01-01, 256-24-00, 256-21-23, and 256-20-00) including all buildings and structures thereon and all privileges and appurtenances thereto belonging, as well as all trees and shrubs thereon, for general municipal purposes, and for all purposes and uses accessory thereto, and that to meet such expenditure to appropriate a sum of money to be expended at the direction of the Select Board, to pay costs of acquiring said property, and for the payment of all costs incidental and related thereto, including refurbishment of the buildings thereon, and to determine whether such amount shall be raised by taxation, transfer from available funds, borrowing or otherwise; to authorize the Selectmen to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project or to take any other action relative thereto.

Land Description:

PARCEL I - Tract I (124 Fisher Avenue):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

- | | |
|---------------|---|
| EASTERLY | on Fisher Avenue, one hundred and fifty (150) feet; |
| NORTHERLY | on land now or formerly of Montrose Foundation, Inc., one hundred and sixty (160) feet; |
| WESTERLY | on lot marked "27,329 S.F." on said plan, one hundred eighty and 80/100 (180.80) feet; |
| SOUTHEASTERLY | on land now or formerly of the Sisters of the Holy Cross Inc., seventy seven and 15/100 (77.15) feet; and |
| SOUTHERLY | on the same, eighty-nine and 27/100 (89.27) feet. |

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Containing twenty-five thousand and eighty-nine (25,089) square feet of land, more or less, according to said plan.

PARCEL II - Tract II (146 Hyslop Road):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

WESTERLY on Hyslop Road by two curved lines, one measuring eighty-one and 6/100 (81.06) feet, the other measuring thirty-eight and 68/100 (38.68) feet;

NORTHERLY by two lines, one measuring thirty-five and 38/100 (35.38) feet, the other measuring one hundred (100) feet;

EASTERLY by a line, one hundred and eighty and 80/100 (180.80) feet;

SOUTHEASTERLY by a line, forty-eight and 30/100 (48.30) feet; and

SOUTHWESTERLY on land now or formerly of Judith Sprague, one hundred eighty- two and 53/100 (182.53) feet.

Containing twenty-seven thousand three hundred twenty-nine (27,329) square feet of land, more or less, according to said plan.

PARCEL III (110 Fisher Avenue):

BEGINNING at the northeasterly corner of the granted premises at a stone bound set in the southwesterly sideline of Fisher Avenue as shown on a plan hereinafter mentioned;

SOUTH 26° 17' 50" EAST by Fisher Avenue 120.00 feet to a point at remaining land of the Commonwealth of Massachusetts; thence

SOUTH 63° 42' 10" WEST by said land of the Commonwealth of Massachusetts 357.80 feet to a point at land now or formerly of Frank R. and Etta P. Pratt; thence

NORTH 39° 28' 50" EAST by said land of Pratt 168.59 feet to a stone bound; thence

NORTH 39° 29' 50" EAST 86.35 feet to a stone bound; thence

NORTH 39° 48' 50" EAST 39.39 feet to a stone bound; thence

NORTH 64° 02' 30" EAST 89.29 feet to the bound first mentioned and the point of beginning.

Containing twenty-six thousand nine-hundred fifty-one (26,951) square feet and being shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Water Division, Land in Brookline to be conveyed to Sisters of the Holy Cross of Massachusetts, The Archbishop Cushing College," dated September 16, 1958, Harold J. Toole, Director of the Water Division and Chief Water Supply Engineer, recorded with said Registry in Book 3700, Page 525.

Excluding so much of the premises that was conveyed by deed from Newbury College, Inc. to Syroos Sanicoff and Ronni M. Sanicoff dated April 28, 2003 and recorded in Book 18778, Page 143, which included the following parcel of land:

A certain parcel of land, now known as and numbered 154 Hyslop Road in said Brookline, shown as Lot A on a plan dated October 10, 2002 and entitled "Subdivision Plan of Land in Brookline, Massachusetts, Norfolk County, I. F. Hennessey Co.", recorded with said Registry as Plan No. 264 of 2003 in Plan Book 507, containing four thousand three hundred and forty-seven (4,347) square feet(+/-) of land.

PARCEL IV (150 Fisher Avenue):

Tract I:

Lot B on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 32,625 square feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.

Tract II:

Lot A on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 28,510 feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.

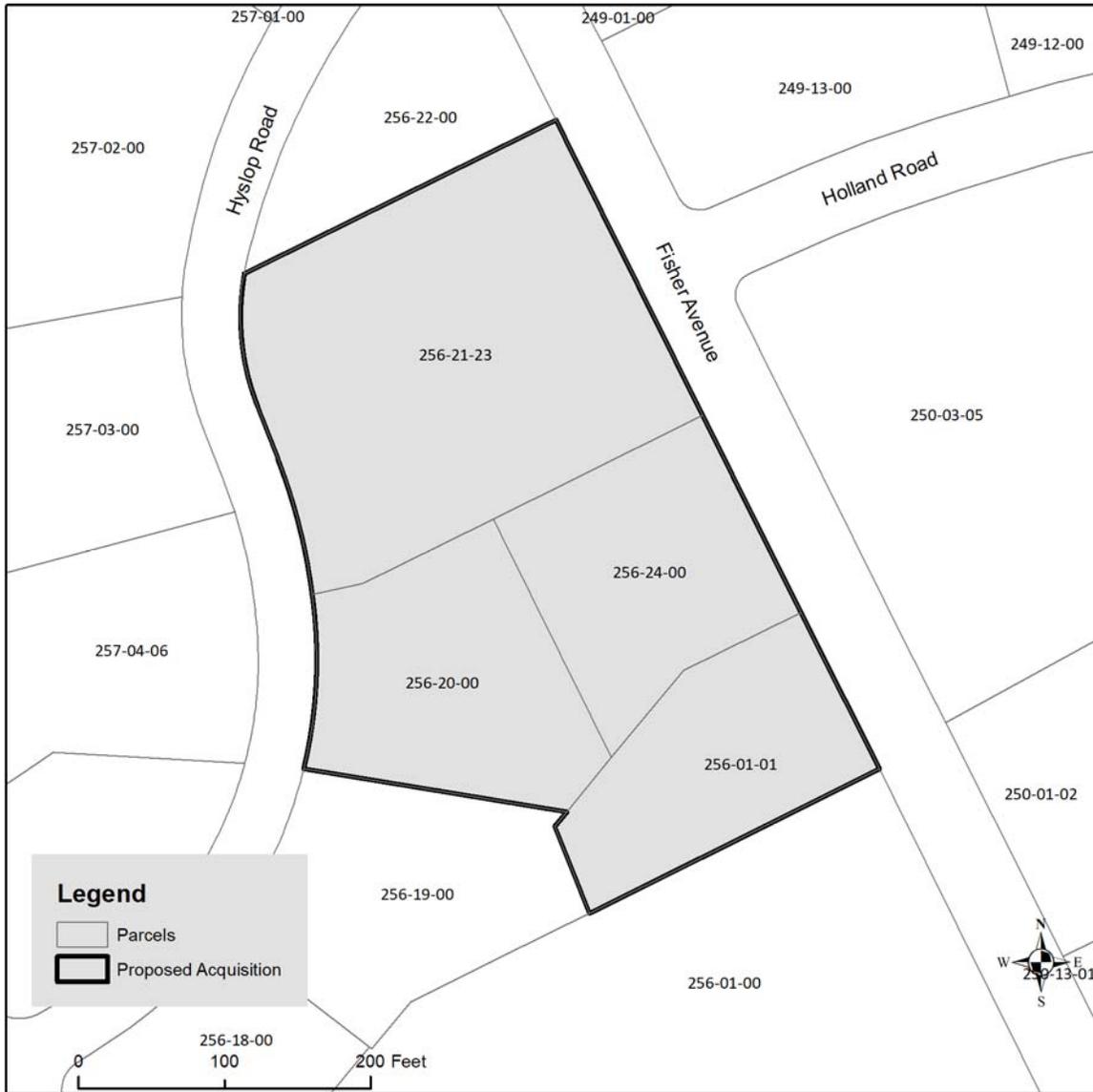


Exhibit I – West Parcel Profit Sharing Chart

Sale of West Parcel - Profit Sharing Framework					
Assume Sale Price of \$18,550,000*** (Colliers appraised value) and assume 2% cost of sale					
Assume Waterfall of Proceeds Sharing Above \$14,800,000 <i>net proceeds</i>					
Total Sale Price	Incremental Sale Proceeds	Incremental Welltower Proceeds		Incremental Town Proceeds	
		\$	%	\$	%
\$ 14,800,000	\$ 14,800,000	\$ 14,800,000	100%	\$ -	0%
\$ 15,800,000	\$ 1,000,000	\$ 371,000 *	0%	\$ 629,000	100%**
\$ 16,300,000	\$ 500,000	\$ 25,000	5%	\$ 475,000	95%
\$ 16,800,000	\$ 500,000	\$ 50,000	10%	\$ 450,000	90%
\$ 17,300,000	\$ 500,000	\$ 75,000	15%	\$ 425,000	85%
\$ 17,800,000	\$ 500,000	\$ 250,000	50%	\$ 250,000	50%
\$ 18,550,000	\$ 750,000	\$ 562,500	75%	\$ 187,500	25%
TOTAL:	\$ 18,550,000	\$ 16,133,500		\$ 2,416,500	

*NOTE 1: For the purpose of calculating cost of sale for this Exhibit, we assume a total sale price of \$18.55M is achieved. This figure is used for illustrative purposes only. Costs of sale will include all out of pocket costs incurred by Welltower in connection with the sale including, without limitation, brokerage commissions, all state and local transfer taxes, and attorneys' and consultants' fees and expenses that are customarily incurred for similar commercial transactions.

**NOTE 2: We assume the Town receives 100% of the initial \$1M in sale proceeds AFTER Welltower's cost of sale

***NOTE 3: Should Welltower achieve a sale price above \$18.55M the Town would propose to share in 10% of additional net proceeds

Exhibit J – Town PILOT Policy

Adopted 12/18/07

Amended 6/28/2011

The Town of Brookline Payment In Lieu of Tax (PILOT) Policy

Brookline is home to, and welcomes a diverse mix of property owners: residential, commercial, governmental and non-profit charitable and educational. The Town's vibrant and growing nonprofit sector both contributes to and benefits from the Town's overall quality of life. The Town provides a variety of critical services to all segments of the community, whether they are residents, businesses or non-profit organizations. While these services provide benefits to all, funding for town departments and services relies heavily on property tax revenues. In order to maintain the high standard of municipal services that Brookline has historically provided, the Board of Selectmen believes that all property owners should contribute a fair share toward the cost.

Overview

“Increasing the overall fiscal capacity of cities and towns turns out to be central to the future prosperity of the Commonwealth... providing communities with the resources to deliver the services and amenities is critical to the state's future development and prosperity ... (and) equally important is making sure that local municipalities have the ability to provide the economic and social environment that is attractive....” Revenue Sharing and the Future of the Massachusetts Economy by the Northeastern University Center for Urban and Regional Policy(2006)

The Town of Brookline, through its various departments, provides a variety of services to its residential and commercial taxpayers and non-profit organizations located or conducting business within the Town. While municipal service requirements vary among these diverse groups, all benefit from the overall enhanced quality of life enjoyed by the community. However, the cost of municipal services is substantial, and the Commonwealth of Massachusetts has limited the sources of revenue available to municipalities. The property tax provides approximately 75% of municipal revenue used to support services. Revenue generated from property taxes is determined by law (Proposition 2 ½), mix of land uses, and geography.

The Town is approximately 6.8 square miles in size and is fully built out; therefore any development is based almost entirely on re-use. The current makeup of the Town based on land use is approximately 55% taxable land and 45% non-taxable. The largest share of the non-taxable land is owned by the Town and used for public buildings, streets/sidewalks, open space and other public uses. Other owners include the state and federal government, a foreign government (Japan), the MBTA, private educational and religious institutions, and charitable and benevolent organizations.

A taxable parcel that becomes tax-exempt does not reduce the Town's total tax levy. Instead, it shifts the tax burden to all remaining taxable parcels. It is a primary goal of the Town to preserve its taxable land, while at the same time continuing to support its rich cultural diversity. It is also a primary goal of the Town to have the cost burden of providing services borne by and shared among all residents, taxpayers, commercial entities and non-profit institutions, to the extent possible and reasonable.

The Commonwealth of Massachusetts and its political sub-divisions, including the Town of Brookline, have historically been recognized as leaders in the area of higher education, arts and culture, public health and religious freedom, and have encouraged non-profits to organize in the state to enrich the quality of life of its residents. The General Court of the Commonwealth created a series of property tax exemptions within the General Laws (M.G.L. Chapter 59 Section 5) as an incentive to support the often vital work of non-profit organizations.

The Town's location adjacent to Boston, and its easy access to mass transportation and major roadways, makes it attractive for non-profit institutions to locate in Brookline. This demand for land and buildings to operate non-profit organizations has absorbed taxable property in Brookline at an alarming rate. The Town is concerned that a continuing shift in tax burden to a diminishing tax base will have a negative impact on residents, local businesses and the overall Brookline community. In order to maintain a fair balance between the cost of town services and payment for those services, the Town has developed a policy to address the need for a payment-in-lieu-of-tax (PILOT) program for tax exempt properties.

Policy

Brookline recognizes that non-profit organizations contribute directly to the quality of life within the community and welcomes them to the town. In order to maintain the financial health of the community so as to continue to provide a range of quality services, the Town must preserve its existing tax base and expand that revenue source where reasonably possible. It is the Town policy to distribute the burden of cost in a fair method among all users of services: citizens, taxpayers and non-profit institutions.

M.G.L. Chapter 59 section 5 enables the granting of tax exempt status to certain non-profit organizations. Once an organization is granted an exemption, the Town can not legally require that organization to pay a property tax or bind that organization to give up the rights to these legal exemptions. Therefore:

1. The Town will seek voluntary PILOT Agreements with all tax exempt institutions within the community that own real property, or that rent real property from the Town (pursuant to MGL Chapter 59 section 5, sub-section 2B);
2. These PILOT Agreements should be based upon fair market value and tax levy. PILOT Agreements should be established on the basis that the non-profit organization's payment

amount is equal to the percentage of tax levy that supports the critical services of the Town's Police, Fire and Public Works operations. The Town has determined that this share is equal to at least 25% of the full levy;

3. In the event that a non-profit organization enters into a voluntary PILOT agreement, the Town may offer to phase in the impact over a period of time. The Town expects to negotiate PILOT agreements, whereby once the payment target is reached, the payment will annually increase by an escalation factor generally equal to the average historic growth in annual tax levy;

4. For smaller, community-based non-profit organizations with controlling interests in properties assessed at less than \$ 5 million in FY 2007 dollars, consideration for community service may be granted as part of an approach to establish the basis for a PILOT Agreement. This value ceiling would be inflated by 2.5% per year in subsequent years. The Town may base such a PILOT Agreement on less than 25% of the full levy.

5. A PILOT Agreement will remain in force for the entire tenure of its contractual term as long as the use and value established in the PILOT Agreement have not changed. All property under a PILOT Agreement must still meet all the requirements for eligibility for exempt status.

6. A PILOT Agreement does not replace the requirement that each organization seeking property tax exemption must file a "Return of Property Held for Charitable Purposes" form (State Tax Form #3ABC) with the Board of Assessors on or before March first of each year;

Guidelines for PILOT Agreements

Recognizing the financial limitations of non-profit organizations, the Town expects to initiate PILOT discussions with non-profit organizations when they are in the process of acquiring property or considering an expansion of existing real estate holdings or planning of new construction on existing property. This approach has the pragmatic advantage of allowing exempt institutions to include the cost of any PILOT Agreement in the financial planning of the new or expanded facility. Further, the Town may waive this approach in the event that a non-profit organization suffers an extraordinary or catastrophic loss, resulting in a financial hardship.

In the event that a non-profit organization acquires property and plans new construction or substantial reconstruction, the eligibility for tax exemption cannot be determined until the construction is completed and eligible exempt use is determined. The exemption would then be applied to the next fiscal year.

In the case of a significant physical change in the property resulting in a change in the property's fair market value that occurs after a PILOT Agreement has been established, the Town will adjust the PILOT Agreement to include a phased in change of the payment on the addition, per the agreement or per an agreed upon schedule.

In the event that there is a change in the use of property under a PILOT Agreement, the Town may review the eligibility of the exemption, and the terms and conditions of the

PILOT Agreement and propose such changes as may be needed to reflect the change in the value of the property.

In the event that the non-profit gives up ownership of the parcel, the parcel will revert back to a taxable status. In the event that a non-profit organization purchases a parcel from a non-profit organization that has agreed to a PILOT Agreement, the parcel will revert back to a taxable status, pending submission of the state tax form (#3ABC), a determination by the Board of Assessors of its tax exemption eligibility, and the completion of a PILOT Agreement with the new owner. In this instance, the Town may elect to seek a voluntary PILOT agreement with the new non-profit acquirer of property.

Exhibit K – Design Guidelines

DRAFT V4 2/25/2020

Newbury College East Parcel Design Guidelines

Proposed to Newbury Zoning Committee

It has been determined by the Newbury Zoning Committee (NZC) that additional guidance is needed to ensure that all future buildings constructed in the Newbury College East Parcel are designed in a manner that reflects the vision and guiding principles established by the Committee. Both the Planning Board and Design Advisory Team should utilize this document to inform their discussions and decisions surrounding their design review of all buildings.

The Newbury College East Parcel is a unique property within the single-family zoning district for its prominence in the Fisher Hill neighborhood. It fronts on Fisher Avenue and the parcel is within the Fisher Hill national register historic district. It serves as a central parcel to the neighborhood at the peak of Fisher Hill and a prominent counterpoint to Reservoir Park. New buildings should be designed and built in a manner that reinforces a neighborhood scale at the street and activates the street edge with street level openness and plantings. Building design should strengthen the relationship between the built environment and the Historic neighborhood. Sustainability and harmony between existing and newly planned buildings should be emphasized.

In the Guidelines that follow, the Study Committee seeks to shape the visual and functional qualities of the buildings, to influence their relationship to neighboring buildings, and to underscore their contribution to the Fisher Hill historic fabric. We chose not to be overly prescriptive, believing that the excellence which we seek for this development will result from a rigorous Design Advisory Team process.

2) Setting

The design problems the site presents are numerous, but the site design priorities of this project should include:

- Scale and setbacks relative to existing Adjacent single- and multi-family residences
- Compatibility to existing Buildings on the site
- Scale along the streets: Fisher Ave and Holland Road
- FAR for the site
- Building Height

3) Buildings- General

Height and mass are the most critical features the NZC sought to address, and the design guidelines therefore encourage the use of intermediate elements to break down the massing and volume of the buildings.

- Human-Scaled Design Elements
 - o Examples: bays, setbacks, stepbacks, dormers, porticos, porches, breezeway
 - o Encourage the use of thoughtful articulation and intermediate design elements such as pilasters, decorative railings, architectural trim, window surrounds, etc.
 - o Architectural elements should be used to provide scale to large building facades. Layout may correspond to architectural or structural bay dimensions.
 - o Variation in building massing may include changes in wall plane or height and may relate to primary building entries, window openings, important corners, or other significant architectural features.
 - o Variation in building massing and detail should relate to scale of surrounding buildings.
 - o Pedestrian scale streetscape components are encouraged; this may include benches and site lighting.
- Materials
 - o Consistent with and relatable to local neighborhood buildings.
 - o Building materials should be selected with the objectives of quality and durability appropriate within its context, and sympathetic with materials used on local neighborhood buildings.
 - o Scale and texture of architectural detailing is important to relate to the existing historic fabric.
 - o To encourage human-scale buildings and to ensure the consistent use of high quality materials appropriate to this environment, buildings on this site may incorporate the following materials and detailing as appropriate:
 - Masonry such as stone, cast stone, brick or architectural precast concrete
 - Cladding and architectural trim may include wood to the extent feasible or aesthetic equivalent.
 - Architectural metals including metal sheets with expressed seams. Limited use of standing metal seam roofing may be used where photovoltaics are required.
 - Roofing materials may include slate or shingles to the extent feasible or aesthetic equivalent. Roof material should have some surface relief.
 - o Carefully detailed selection of materials should reinforce architectural scaling and appropriate proportions.

- Roofs
 - o Articulated roof forms are encouraged through changes in height and shape (hip and gambrel profiles) and the use of dormers, decks, eyebrows, chimneys and gutters.
 - o Limited use of flat roofs.
 - o All Rooftop equipment should be screened from the street in a way that integrates the building architecture in form and material. Screen all rooftop equipment for decreased visibility from the street.
 - o The roof should complement the scale of the building and enhance the design qualities of base middle and top.
 - o Roof decks to have detailing consistent with residential scale and style and high quality materiality.
 - Fenestration
 - o Residential scale, larger openings on more public ground floor spaces, smaller windows at upper floors.
 - o Vary scale of fenestration between living areas, bedrooms, etc.
 - o Transparent glazing (non-tinted, non-colored) is encouraged as appropriate and to the extent feasible.
 - o Location and patterns of glazing should enhance building function and scale.
 - o Recessed glazing, glass framing, and mullion patterns should be used to provide depth and substance to building façade and should consider play of sunlight across façade where appropriate.
 - o Glazing systems should utilize framing and mullion systems that provide scale and surface relief.
 - Building Entries
 - o Use of porches, large openings, and canopies.
 - o Primary building entries should be emphasized through changes in wall plane or building massing, a greater level of detail, quality of materials, and more articulated lighting.
- 4) Sustainable Design Elements
- a. Goal of LEED Gold Certifiable; includes but is not limited to elements listed below.
 - b. Include elements of Passive House and WELL strategies
 - c. Will comply with the intent of the Town's No Fossil Fuels Bylaw with the exception of the indoor pool.
 - d. Implement Sustainable Site Measures which will include the following.
See also Section 8: Landscaping.
 - (i) Stormwater control measures will optimize on-site filtration using rain gardens and bioswales.

- (ii) Bicycle parking will be provided on site to accommodate residents, staff, and visitors. Shower and dressing room access will be provided.
 - (iii) Consider use of permeable pavements such as permeable asphalt for driveways and parking areas, and permeable concrete pavers for the vehicular entry plaza, Holland Rd. overlook, and other site features.
 - (iv) Install native and drought tolerant plants. Incorporate bird friendly and pollinator plants.
 - (v) Visual and physical access to vegetation.
 - (vi) Spaces designed to support social connection.
 - (vii) Full cut-off exterior light fixtures with LED lighting. Use of pole mounted fixtures limited to surface parking areas. Site lighting is encouraged to be installed at low elevation to adequately light the path of travel per code. All exterior lights will meet the required Backlight-Uplight-Glare rating. There will be no uplighting of landscaping or buildings.
 - (viii) Electric vehicles for on-site fleet of passenger vehicles. Electric vehicle charging stations will be provided in excess of Town requirements.
- e. Optimize Energy Efficiency of Building Systems
- (i) Reduce energy demand - implement Passive House strategies to reduce energy use. Strategies include increased insulation at walls and roofs, tight building envelope, and high-performance windows.
 - (ii) Harvest Site Energy: Optimize the building for solar renewable energy measures, consider including photovoltaic and solar thermal.
 - (iii) Provide water-efficient plumbing fixtures
 - (iv) Perform Building Commissioning for MEP systems and building envelope
 - (v) Provide training for Operations and Maintenance
- f. Indoor Environmental Quality
- (i) Optimize daylighting and views
 - (ii) Specify healthy building materials
 - (iii) Promote occupants' comfort and well-being by providing interior cross-contamination prevention measures and CO2 monitoring.
- g. Implement WELL strategies to provide users with a healthy building:
- (i) Aesthetic Circulation Network
 - (ii) Drinking Water Access
 - (iii) Restorative Room

(iv) Control Glare

5) New Buildings

The new building (s) may incorporate the following measures to minimize its scale, establish compatible massing relationships with adjacent structures, and engage the streetscape:

- Generous first floor height
- Public and common space on first floor
- Diminishing verticality
- Reduce footprint of building at top floor to create a diminished sense of scale – intermittent roofdecks at top floor is encouraged.
- Building massing that is perpendicular to streets should be scaled down by reducing the building width at setbacks and creating smaller elements at the ends of massing, as demonstrated by the massing that was presented to the zoning committee on January 8th, 2020.

6) Historic Buildings

- Proposed changes to historic buildings are to be reviewed with the Town's Preservation Staff and Commission.
- Propose a joint committee (architectural sub committee & preservation commission) for streamlining this process.
- Where existing historic buildings on site are to be retained, their renovation will be consistent with Secretary of the Interior's Standards for the Treatment of Historic Properties. This applies to exterior elements of the buildings.
- Any new intervention for accessibility, connections to new buildings, etc. will be done in a historically sensitive manner to ensure consistency with existing historic elements.

7) Public Space and Streetscape

- Holland Road and Fisher Ave Public Space and Streetscape
 - o Preservation of existing Street Trees
 - o Protection of existing trees on site per Arborist Report
 - o Review of streetscape to determine whether there are opportune areas for public benches along the perimeter of the site. If provided, bench location and design to be integrated into the landscape design.

8) Vehicular Circulation, Access, and Parking

- Surface parking will be limited to the south end of the site. 20' setback will be maintained from property line to edge of surface parking areas for all adjacent properties to the south. 5' min. buffer to adjacent property line and fence will be provided at any vehicle turn-around areas.
- Eliminate Holland Road driveway and create an overlook
- Service and delivery activities should be separated whenever possible from the primary public access and screened from public view by means such as locating underground or locating internal to structures.

- Parking structures should utilize materials and architectural detailing found in the primary development being served.

9) Landscape

- Provide either fencing, berming, or landscape screening to buffer the south parking area from the adjacent Olmsted Hill development.
- Landscaped areas adjacent to the public streets will be designed to maintain soil and prevent runoff.
- Rain Gardens: Where feasible, rain gardens will be installed to collect drainage at the perimeter and interior of the project. Bioswales and other stormwater systems will be designed and maintained in a clean manner to enhance the view from the street.
- Predominant use of native and drought tolerant plantings will be used where possible.
- Site lighting design is to be integrated into the wayfinding and building identification.
- Irrigation design and maintenance consistent with LEED standards.
- Improve permeability of roadway with pavers and other pervious materials to the extent feasible.

10) Signage

- Signage design will conform to guidelines described in “A Guide to Sign and Façade Design”.

SELECT BOARD’S RECOMMENDATION

Please see the Board’s report for this article presented under Article 9. A unanimous Select Board voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE’S RECOMMENDATION

Please see the summary on this article provided under Article 9. The Advisory Committee by a unanimous 27-0-1 vote recommends FAVORABLE ACTION the following motion:

VOTED: That the Town authorize the Select Board to enter into any necessary agreement(s) and/or amendments to existing agreements or other action(s) required to carry out the terms and conditions set forth in that certain Memorandum of Agreement and related Tax Certainty Agreement, between the Town of Brookline (hereinafter referred to as the “Town”) and Welltower Inc., and Welltower TRS Holdco LLC, their successors and

assigns (hereinafter collectively referred to as “Welltower”). Welltower owns the parcels of land formerly occupied by Newbury College and commonly referred to as 117 Fisher Avenue and 124 Holland Avenue (said properties being sometimes referred to herein as the “East Parcel”); 110 Fisher Avenue, 150 Fisher Avenue, 146 Hyslop Road (a/k/a 129 Fisher Avenue) and 124 Fisher Avenue (said properties being collectively referred to as the “West Parcel”); and (ii) 125 Holland Road (“125 Holland”). Welltower intends to construct a senior living community on the East Parcel including 160 units, of which 80 will be independent living, 40 will be assisted living and 40 will be memory care (hereinafter referred to as the “Project”); as further described below, said Memorandum of Agreement to include the following terms at a minimum:

- 1) Offering the West Parcel for sale to the Town for \$14.8 million;
- 2) Providing two separate means for meeting the inclusionary zoning requirements imposed by the planned overlay district on the Project: (i) transferring the 125 Holland Road parcel to a qualified developer along with \$3.123 million in cash to allow for the construction of 18 affordable condominium units; or (ii) making a \$6.525 million payment in the Town’s Affordable Housing Trust Fund;
- 3) Requiring Welltower to not object to certain conditions of the Special Permits related to the Project, including:
 - a) Sustainability commitments, including a commitment not to use natural gas or fuel oil except for the commercial kitchen, emergency generator, domestic hot water, and indoor swimming pool, and to construct the Project in a manner so as to be LEED-NCv4 Gold Certifiable;
 - b) Partnership with the Council on Aging or Brookline CAN on programming and events as well as a commitment to a yearly contribution to the Senior Center;
 - c) Additional commitments to sustainable design elements;
 - d) Historic documentation of the East Parcel buildings;
 - e) The provision of a Public Easement Area along Fisher Avenue and a commitment to maintain the existing trees within said Public Easement Area;
 - h) Maintenance and adaptive re-use of the Mitton House on the East Parcel into the Project;
 - i) Relocation of a Fisher Avenue crosswalk.
 - j) Job fairs and internship opportunities targeted to Brookline residents
- 4) Providing a 95-year Tax Certainty Agreement on the East Parcel which shall be a restrictive covenant;
- 5) Requiring that the agreement(s) be recorded in the chain of title; and upon any further terms and conditions that the Board deems in the best interest of the Town with respect to the proposed development of the said Site; and

- 6) Other terms and conditions that the Select Board deems in the best interest of the Town.

The legal descriptions of the parcels for the Site are as follows:

EAST PARCEL

PARCEL ONE (117 Fisher Avenue):

BEGINNING at a monument in the easterly line of Fisher Avenue, thirteen hundred six (1,306) feet from Boylston Street at the northwest corner of the land conveyed to the Inhabitants of the Town of Brookline by Horace N. and John H. Fisher, thence

NORTHEASTERLY: on said land at right angles with said Avenue, 264.02 feet to a monument; thence

NORTHERLY: on said land 250.76 feet to a monument at a point where the fence bounding said land as it now runs makes an angle; thence

SOUTHWESTERLY: by a straight line drawn 414.92 feet to a point in the easterly line of said Avenue 180 feet northerly from the point of beginning, and thence

SOUTHERLY: by the easterly line of said Avenue 180 feet to the point of beginning.

Or however otherwise bounded and described. Containing sixty-three thousand seven hundred and seventy-five (63,775) square feet, more or less, according to a plan made by Fuller and Whitney dated August 11, 1884, and recorded with the Norfolk County Registry of Deeds in Book 559, Page 392.

PARCEL TWO (124 Holland Road):

A certain parcel of land, with the improvements thereon, situated on Fisher Avenue, Brookline, Massachusetts, and shown as the lot marked "C" on a plan entitled "Plan of Land in Brookline, Mass." by E. Worthington, Engineer, dated July 15, 1926, recorded with Norfolk County Registry of Deeds, Book 1707, Page 513, bounded and described as follows:

NORTHERLY	by Holland Road by two measurements, 260.70 feet and 102.00 feet;
EASTERLY	by land now or formerly of Herbert T. Boardman shown as the lot marked "D" on said plan 267.37 feet;
SOUTHERLY	by Tract II herein, 298.18 feet;
WESTERLY	by Fisher Avenue, 323.75 feet;
NORTHWESTERLY	by the curve forming the southeast corner of said Holland Road and Fisher Avenue, 23.84 feet;

All as shown on said plan and containing 105,081 square feet of land, according to said plan.

WEST PARCEL

PARCEL I - Tract I (124 Fisher Avenue):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

EASTERLY	on Fisher Avenue, one hundred and fifty (150) feet;
NORTHERLY	on land now or formerly of Montrose Foundation, Inc., one hundred and sixty (160) feet;
WESTERLY	on lot marked "27,329 S.F." on said plan, one hundred eighty and 80/100 (180.80) feet;
SOUTHEASTERLY	on land now or formerly of the Sisters of the Holy Cross Inc., seventy seven and 15/100 (77.15) feet; and
SOUTHERLY	on the same, eighty-nine and 27/100 (89.27) feet.

Containing twenty-five thousand and eighty-nine (25,089) square feet of land, more or less, according to said plan.

PARCEL II - Tract II (146 Hyslop Road):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

- WESTERLY on Hyslop Road by two curved lines, one measuring eighty-one and 6/100 (81.06) feet, the other measuring thirty-eight and 68/100 (38.68) feet;
- NORTHERLY by two lines, one measuring thirty-five and 38/100 (35.38) feet, the other measuring one hundred (100) feet;
- EASTERLY by a line, one hundred and eighty and 80/100 (180.80) feet;
- SOUTHEASTERLY by a line, forty-eight and 30/100 (48.30) feet; and
- SOUTHWESTERLY on land now or formerly of Judith Sprague, one hundred eighty- two and 53/100 (182.53) feet.

Containing twenty-seven thousand three hundred twenty-nine (27,329) square feet of land, more or less, according to said plan.

PARCEL III (110 Fisher Avenue):

BEGINNING at the northeasterly corner of the granted premises at a stone bound set in the southwesterly sideline of Fisher Avenue as shown on a plan hereinafter mentioned;

SOUTH 26° 17' 50" EAST by Fisher Avenue 120.00 feet to a point at remaining land of the Commonwealth of Massachusetts; thence

SOUTH 63° 42' 10" WEST by said land of the Commonwealth of Massachusetts 357.80 feet to a point at land now or formerly of Frank R. and Etta P. Pratt; thence

NORTH 39° 28' 50" EAST by said land of Pratt 168.59 feet to a stone bound; thence

NORTH 39° 29' 50" EAST 86.35 feet to a stone bound; thence

NORTH 39° 48' 50" EAST 39.39 feet to a stone bound; thence

NORTH 64° 02' 30" EAST 89.29 feet to the bound first mentioned and the point of beginning.

Containing twenty-six thousand nine-hundred fifty-one (26,951) square feet and being shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Water Division, Land in Brookline to be conveyed to Sisters of the Holy Cross of Massachusetts, The Archbishop Cushing College," dated September 16, 1958, Harold J. Toole, Director of the Water Division and Chief Water Supply Engineer, recorded with said Registry in Book 3700, Page 525.

Excluding so much of the premises that was conveyed by deed from Newbury College, Inc. to Syroos Sanicoff and Ronni M. Sanicoff dated April 28, 2003 and recorded in Book 18778, Page 143, which included the following parcel of land:

A certain parcel of land, now known as and numbered 154 Hyslop Road in said Brookline, shown as Lot A on a plan dated October 10, 2002 and entitled "Subdivision Plan of Land in Brookline, Massachusetts, Norfolk County, I. F. Hennessey Co.", recorded with said Registry as Plan No. 264 of 2003 in Plan Book 507, containing four thousand three hundred and forty-seven (4,347) square feet(+/-) of land.

PARCEL IV (150 Fisher Avenue):

Tract I:

Lot B on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 32,625 square feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.

Tract II:

Lot A on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 28,510 feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351

125 HOLLAND

The premises at 125 Holland Road, Brookline, Massachusetts bounded and described as follows:

BEGINNING at a stone bound on the easterly side of Fisher Avenue about 15 feet northwesterly of Holland Road; thence running

NORTHWESTERLY	on said Fisher Avenue 127.50 feet; thence turning at a right angle and running
EASTERLY	by land now or late of Curtis and land now or late of Nash on two courses 215.82 feet and 53.10 feet; thence turning and running
SOUTHERLY	by land now, or late of Curtis 157.08 feet to Holland Road; thence turning and running
WESTERLY	on said Holland Road 224.12 feet to a stone bound, thence turning and running
NORTHERLY	on the street line 23.33 feet of beginning.

Containing 37,930 square feet of land, more or less, and being shown on plans by Ernest W. Bowditch, Engineer, recorded with said Registry in Book 807, Page 458; Book 1007, Page 553; and Book 1081, Page 378.

XXX

MEMORANDUM OF AGREEMENT
BY AND BETWEEN
THE TOWN OF BROOKLINE AND WELLTOWER INC. AND WELLTOWER TRS HOLDCO LLC

This Memorandum of Agreement (this “Agreement”) between WELLTOWER INC., a Delaware corporation and WELLTOWER TRS HOLDCO LLC, a Delaware limited liability company, each having an office at 4500 Dorr Street, Toledo, Ohio 43615 (together with their successors and assigns hereinafter collectively referred to as “Developer”) and the Town of Brookline, a municipal corporation (“Town”), located in Norfolk County, Massachusetts and acting by and through its Select Board (the “Board”), (Developer and the Town being collectively referred to as the “Parties”) is made and entered into this ___ day of _____, 2020, upon the mutual promises and obligations hereinafter set forth and additional consideration which the parties acknowledge is adequate and appropriate, upon the following terms and conditions:

WHEREAS, by Quitclaim Deed dated September 5, 2019 recorded with the Norfolk Registry of Deeds (the “Registry”) in Book 37136, Page 283, Welltower Inc. acquired property in Brookline, Massachusetts commonly known as 117 Fisher Avenue and 124 Holland Avenue (said properties being sometimes referred to herein as the “East Parcel”, a legal description of which is attached hereto as Exhibit A-1);

WHEREAS, by Quitclaim Deed dated September 5, 2019 recorded with the Registry in Book 37136, Page 286, Welltower TRS Holdco LLC acquired property commonly known as (i) 110 Fisher Avenue, 150 Fisher Avenue, 146 Hyslop Road (a/k/a 129 Fisher Avenue) and 124 Fisher Avenue (said properties being collectively referred to as the “West Parcel”, a legal description of which is attached hereto as Exhibit A-2), and (ii) 125 Holland Road (“125 Holland”), a legal description of which is attached hereto as Exhibit A-3;

WHEREAS, Developer seeks to construct a senior living facility consisting of 160 units of independent living, assisted living and memory care units and related facilities and parking spaces for a total of 98 vehicles (hereinafter collectively referred to as the “Project”, which term does not include the 125 Holland Project as such term is defined below), and a summary of the proposed Project and associated concept site plan, and concept building massing are attached hereto as Exhibit B;

WHEREAS, the proposed location for the Project is the East Parcel all as more particularly described in the legal description contained in Exhibit A-1 (collectively referred to as the “Property” or the “Site” unless otherwise indicated);

WHEREAS, the Parties have elected to develop multiple options for the Project to address the requirements it engenders related to affordable housing, and intend to memorialize the parameters by which the Developer will either: (1) provide eighteen

(18) affordable condominium units at 125 Holland; or (2) provide a cash payment of Six Million Five Hundred Twenty Five Thousand Dollars (\$6,525,000) made payable to the Brookline Affordable Housing Trust Fund;

WHEREAS, the Parties agree that the Project will benefit the Town in many ways including, but not limited to: (1) the opportunity for the Town to acquire the West Parcel at an agreed-upon price or, if the Town elects not to acquire the West Parcel, share in certain proceeds of the sale of the West Parcel, as set forth below; (2) substantial fiscal benefits associated with the redevelopment of the East Parcel for a taxable use; (3) a 95-year Tax Certainty Agreement for the East Parcel (the "Tax Certainty Agreement"); (4) improvements to the public realm including a public area easement along the Fisher Avenue frontage of the East Parcel which will include the obligation of Developer to maintain the existing trees in the easement area (the "Public Area Easement"), (5) commitment to sustainable development in general conformance to the standards embodied in the Town's "Prohibition on New Fossil Fuel Infrastructure in Major Construction"; (6) providing access in the Project for neighborhood meetings and for events held by the Town's Council on Aging; and (7) maintenance for adaptive reuse of the Mitton House and addition on the East Parcel, subject to the terms hereof;

WHEREAS, the Newbury College Zoning Study Committee ("the Committee") intends to submit a zoning by-law amendment (the "Proposed Zoning Amendment") for consideration at the Town Meeting commencing in June 2020 that, if approved, would allow the Project to proceed through a special permit process informed by design guidelines developed specifically for the Project;

WHEREAS, the provisions of this Agreement are available for consideration by the Planning Board and the Board of Appeals in reviewing any application for a special permit(s) for the Project;

WHEREAS, the Parties wish to enter into this Agreement to memorialize their mutual understandings and obligations with respect to (1) the Project and certain permits and approvals required for the Project, as well as any other agreements between the Developer and the Town pertaining to the Project, including a 95-year Tax Certainty Agreement and the Public Area Easement, (2) the manner in which the Developer will comply with the requirements of Section 4.08 of the Town's Zoning Bylaw with respect to affordable housing requirements; (3) agreements of the Parties with respect to the disposition of the West Parcel; and (4) other matters set forth herein, all on the terms and conditions hereinafter set forth;

WHEREAS, the Parties contemplate entering into such further binding agreements as reasonably appropriate and approved by both Parties to proceed with the Project and to satisfy the mutual obligations contained herein;

NOW THEREFORE, in consideration of the promises and mutual obligations of the Parties hereto and upon good and valuable consideration the receipt and sufficiency of which the Parties acknowledge, each of them does hereby covenant and agree as follows:

1. CERTAIN DEFINITIONS. All references herein to the following terms shall have the meanings hereinafter set forth:
 - a) All references to the “Proposed Project Zoning Amendment” shall be construed as a reference to the text of a Warrant Article prepared for the Town Meeting commencing June 2020, a copy of which is attached hereto as Exhibit C, as such text may be amended at Town Meeting, provided that such amendments do not impose burdens on the Project that are materially adverse to the financial feasibility of the Project in the reasonable judgement of Developer (which may include construction or operation costs). If Developer determines in its reasonable judgment that any such amendment/s to the text of the Proposed Project Zoning Amendment (Exhibit C) do impose burdens on the Project that are materially adverse to the financial feasibility of the Project, Developer shall use all commercially reasonable efforts to notify the Town as soon as possible prior to any vote to amend the Proposed Project Zoning Amendment. If the Proposed Project Zoning Amendment is nonetheless passed in a form amended in a materially adverse manner, and as a result thereof Developer decides in its sole discretion not to proceed with the Project or if Developer determines in its reasonable judgment that the amendment/s prohibits Developer from proceeding with Project as proposed then, in either case, Developer shall so notify the Town in writing within seven (7) business days after the date Town Meeting votes these articles, and in such case this Agreement shall immediately become null and void and of no force and effect.
 - b) All references to the “Town Meeting Approval Conditions” shall be construed as references to: (i) approval by the 2020 Annual Town Meeting and the Attorney General of the Proposed Project Zoning Amendment; (ii) authorization by Town Meeting of the acceptance of the 95-year Tax Certainty Agreement attached hereto as Exhibit D; (iii) authorization by Town Meeting for the Select Board to execute this Agreement and any other documents or agreements necessary or appropriate for implementation of the proposed Project; and in each case with challenge periods to all such Town Meeting actions having passed (which, in the case of the Proposed Zoning Amendment, shall be the challenge period under G.L. c. 40, Secs. 32 and 32A) with no challenges by unrelated third parties pending or, if any of such actions is/are challenged, the same having been finally disposed of in a manner favorable to the Town Meeting action, not later than January 31, 2021. Notwithstanding anything herein to the contrary, if the Town Meeting Approval Conditions have not been satisfied by such date, then the Developer shall have the right, at any

point prior to the issuance of the Special Permit contemplated by the Proposed Project Zoning Amendment, to abandon its permit application and relinquish its right to pursue the Project. Exercise of said right by the Developer will terminate this Agreement without the need for any further action on the part of either Developer or the Town, and without further recourse to the parties hereto.

- c) All references to the “Special Permit and Other Required Approvals” shall be construed as references to such other special permits, variances, licenses and/or other approvals, including but not limited to the expiration of any demolition delay under the Town’s Demolition Delay By-Law or lift(s) of stay as to such delay, any additional special permits under the existing Zoning By-Law and Proposed Project Zoning Amendment, including building permits and certificates of occupancy, which are necessary, in Developer’s and Town’s reasonable determination, to allow for the construction and operation of the Project such that the Project, with all the appeal periods having passed, with no appeals pending or, if any such permit or approval is appealed, the same having been finally disposed of favorably to Developer not later than two (2) years from the date of issuance of the permit or approval which is the subject of the appeal.

2. AFFORDABLE HOUSING.

- a) 125 Holland Option. In addition to the Town Meeting Approval Conditions, the Committee shall submit a warrant article for consideration at the 2020 Annual Town Meeting (the “Proposed 125 Holland Warrant Article”, a copy of which is attached hereto as Exhibit E) pursuant to which 125 Holland shall be included in an overlay district to allow for the construction thereon of a condominium project containing eighteen (18) units of affordable housing (the “125 Holland Project”). In the event that the 125 Holland Warrant Article fails to achieve the 2/3 Town Meeting vote necessary for approval, the “Cash Option”, as described further below, shall automatically take effect.

A conceptual site plan of the development of 125 Holland Project proposed by the Proposed 125 Holland Warrant Article is attached as Exhibit F. The conceptual site plan is subject to change as 125 Holland Developer advances the 125 Holland Project.

The Town understands and agrees that the Developer does not intend, nor shall it be required to construct the 125 Holland Project. Accordingly, the Developer shall have the right to enter into such contractual arrangements with a third party, which the Developer has determined to have the requisite experience and financial wherewithal to construct the 125 Holland Project (the “125 Holland Developer”). The Developer shall

include within the arrangements it enters into with the 125 Holland Developer a provision stating that any recourse by the 125 Holland Developer to the Zoning Board of Appeals for modification of the affordability requirements pursuant to Section 5.06.4.m.4 (or equivalent section), if such recourse would require raising the applicable Median Income levels, shall be conditioned upon prior recourse to funds available to the 125 Holland Developer by means of all budgeted contingencies (but in no event including the Developer Backstop, as such term is hereinafter defined). The Developer shall send to the Town copies of all contractual arrangements reached with the 125 Holland Road Developer prior to their execution. Pursuant to said contractual arrangements:

- (i) As soon as is reasonably feasible following the later of (i) issuance of a building permit for the Project, and (ii) the 125 Holland Developer's obtaining a construction loan for the 125 Holland Project (which construction loan is expected to contain or require customary net worth and liquidity covenants of the 125 Holland Developer and its guarantors), the Developer shall cause 125 Holland to be conveyed for nominal consideration to the 125 Holland Developer, subject to an Affordability Deed Restriction (in a form substantially similar to the one attached at Exhibit G) whose terms specify that it will survive any further transfer including foreclosure; and
- (ii) the Developer shall contemporaneously contribute cash in the amount of Three Million One Hundred Twenty Three Thousand Dollars (\$3,123,000) to the 125 Holland Project, to be deposited in a construction disbursement account and made available on a requisition basis to the 125 Holland Developer during the course of construction on customary terms and conditions; and
- (iii) except for the Developer Backstop (as hereinafter defined), the 125 Holland Developer shall be solely responsible for all costs associated with the 125 Holland Project, including, without limitation, the design, financing, construction, completion and marketing of the same. The Developer agrees to reasonably cooperate in the 125 Holland Developer's attempt to secure all permits and approvals necessary to proceed with the 125 Holland Project, including by executing applications for the same (or authorizing the 125 Holland Developer to do so), but such cooperation shall be at no additional cost or obligation to Developer. Following the conveyance of 125 Holland to the 125 Holland Developer, the 125 Holland Developer shall be responsible for obtaining all necessary approvals and permitting and the

Developer agrees not to appeal or otherwise contest any issuance of any permit necessary to complete or bring online the 125 Holland Project.

It is expressly understood and agreed by the Town that under no circumstance shall the issuance of the Special Permit and Other Required Approvals for the Project (including, without limitation, any building permit or certificate of occupancy) be conditioned on the commencement or completion of the 125 Holland Project.

If the 125 Holland Developer is unable to close on a construction loan for the 125 Holland Project by December 31, 2021, the obligations of the Developer hereunder will automatically revert to making the cash payment described in the Cash Option below without the need for any further agreement or documentation.

Upon closing of the construction loan for the 125 Holland Project, Welltower Inc., will also provide a financial guaranty of up to \$650,000 (the "Developer Backstop") for the benefit of the Town to help ensure completion of the 125 Holland Project should the funds available for completion be deemed insufficient by the construction lender after recourse to the available sources of funding from the 125 Holland Developer and its guarantor(s). Evidence that the construction lender has deemed the funds insufficient shall include: (1) notification by the construction lender to the Developer or the Town that the construction lender has reached such a conclusion; (2) publication of a foreclosure sale of 125 Holland; (3) classification by the lender of the loan as 100 percent impaired with a full write-off; or (4) an arm's length sale of the loan while impaired. To the extent Welltower Inc. elects not to contribute further funds under the Developer Backstop to help ensure completion of the 125 Holland Project under those circumstances, Welltower Inc. will be required to pay into the Town's Affordable Housing Trust any funds not previously advanced by the Developer under its Developer Backstop. If (1) Welltower has not advanced the full amount of the Developer Backstop prior to the later of (i) December 31, 2023 or, (ii) the term of any applicable construction loan as the same may be extended by the construction lender, and (2) the 125 Holland Road Project has not been completed by such date, Welltower Inc. will be required to pay into the Town's Affordable Housing Trust any funds not previously advanced under the Developer Backstop, unless it has already done so.

It is understood that the text of the Proposed 125 Holland Warrant Article may be amended at Town Meeting, provided that such amendment/s in the reasonable judgement of the 125 Holland Developer, do not impose

burdens on the 125 Holland Project which are materially adverse to the Developer or the ability of the 125 Holland Developer to complete the 125 Holland Project (which may include increased construction or operation costs or decreased maximum affordable sales prices). If any such amendment/s to the text of the Proposed 125 Holland Warrant Article do impose burdens on the 125 Holland Project as set forth in the preceding sentence, then Developer or the 125 Holland Developer shall so notify the Town in writing within seven (7) business days of the conclusion of Town Meeting, and in such case the provisions of Section 2(b) below shall automatically come into effect.

- b) Cash Option. Upon the occurrence of the Cash Trigger Conditions (as hereinafter defined), in lieu of the 125 Holland Project, the Developer shall fully satisfy all obligations arising under Section 4.08 or other operative provision of the Zoning By-law with respect to affordable housing by making a cash contribution to the Town's Affordable Housing Trust Fund (the "Cash Contribution") equal to Six Million Five Hundred Twenty Five Thousand Dollars (\$6,525,000) in two installments. Per Section 4.08 of the Town's Zoning By-Law, this obligation (minus the initial 25% payment if paid in advance) shall be secured at Developer's discretion via a recorded legal instrument or letter of credit satisfactory to the Community Development Division prior to issuance of a building permit for the Project. Fifty percent (50%) of the Cash Contribution shall be payable thirty days after the later of (i) the issuance of the first non-appealable building permit for the Project, and (ii) the occurrence of a Cash Trigger Condition. The balance of the Cash Contribution shall be due prior to the issuance of the final Certificate of Occupancy for the Project. Early advances on the 50% final payment may be made on a mutually agreed upon basis between the Select Board and Developer with incentives for early payments to be negotiated in good faith. Any unpaid balance 48 months following an appeal-free Special Permit shall accrue interest at an annual rate equal to the monthly 10-year U.S. Treasury rate.

As used herein, the term "Cash Trigger Conditions" shall mean and include either of the following: (1) the Town Meeting beginning in June 2020 fails to approve the Proposed 125 Holland Warrant Article, or it is approved with one or more material adverse text amendments as set forth in Section 2(a) above, or the Attorney General does not approve it or the rescission thereof; or (2) the 125 Holland Developer fails to close on a construction loan by December 31, 2021.

3. WEST PARCEL

- a) Possible Acquisition of West Parcel by the Town. The Town agrees to take such actions as are required to cause there to be a vote of all the Town's electorate by no later than November 3, 2020 to approve a so-called debt exclusion enabling the Town's acquisition of the West Parcel for a purchase price (the "West Purchase Price") equal to Fourteen Million Eight Hundred Thousand Dollars (\$14,800,000). In anticipation of that vote, and regardless of when the vote on the debt exclusion occurs, the Town shall propose for the 2020 Annual Town Meeting (and, if necessary, a subsequent Town Meeting) the following warrant article (the "Proposed West Parcel Warrant Article"): a warrant article authorizing the Town to acquire the West Parcel for the West Purchase Price and authorizing the Town's chosen method for financing the acquisition, in the form of **Exhibit H** annexed hereto. Subsequent to the June 2020 Annual Town Meeting and assuming a positive result of the Proposed Project Zoning Amendment, the Developer and the Town shall negotiate in good faith to enter into a purchase and sale agreement for the conveyance of the West Parcel to the Town (the "West Parcel PSA") for the West Purchase Price with a closing to take place no later than the date (the "Outside Closing Date") that shall be the later of: (i) thirty (30) days after the satisfaction of the Town Meeting Approval Conditions and (ii) sixty-five (65) days after the vote approving the necessary debt exclusion; and on terms otherwise reasonably acceptable to the Parties. Developer shall carry commercially reasonable property insurance until closing to cover any potential property loss. Without limiting the generality of the foregoing, it is understood that the West Parcel shall be conveyed to the Town on an "as-is, where-is" basis without any representation or warranty as to the condition of the West Parcel or any improvements thereon or its potential development.
- b) Possible Profit Sharing Upon Sale of West Parcel. Upon the occurrence of any Profit Sharing Trigger Conditions (as hereinafter defined), the Developer shall commence and thereafter use commercially reasonable efforts to market the West Parcel for sale to a third party. Such commercially reasonable efforts may include, at Developer's discretion, retaining a qualified real estate brokerage firm to assist with the marketing of the property in order to achieve the best possible price on terms and conditions that are acceptable to the Developer in its discretion. Developer shall send to the Town or its consultant for informational purposes only Welltower's marketing and disposition plan for the West Parcel. It is understood and agreed that whether or not to sell the West Parcel, the identity of any purchaser, the timing of such sale, and all other terms and conditions of any such potential sale shall all be in the Developer's sole discretion. If the purchase price Developer is willing to accept for the West Parcel in an arms-length transaction exceeds the West

Purchase Price then Developer shall pay to the Town an amount (the “Town’s Share”) equal to the total of the “Incremental Town Proceeds, as shown on the Chart entitled “Profit Sharing Structure – Newbury College West Side” and annexed hereto as Exhibit I, less the Developer’s out of pocket transaction costs incurred by the Developer in connection with the sale. The Town’s Share shall be paid by the Developer to the Town not later than seven (7) business days after the closing of such sale, and shall be deposited with the Town Treasurer and held in a separate account until a purpose is authorized. As used herein, Developer’s transaction costs shall include reasonable and customary costs and charges incurred by a seller of commercial property in the Commonwealth of Massachusetts and the Town of Brookline, including, without limitation, broker’s fees and commissions, all marketing costs, transfer taxes, costs to clear any title matters, attorneys’ and other consultants’ fees and expenses related to the sale.

The term Profit Sharing Trigger Conditions shall include any of the following: (i) the Town’s voters failing to approve the debt exclusion by November 3, 2020; (ii) the June 2020 Town Meeting (or, if appropriate, a subsequent Town Meeting) failing to approve the Proposed West Parcel Warrant Article, or the Attorney General failing to approve the same or the rescission thereof; (iii) the Parties, despite the exercise of good faith efforts, failing to agree upon the terms and enter into the West Parcel PSA by thirty (30) days after the approval by the voters of the debt exclusion question intended to support the purchase of the West Parcel; or (iv) the closing of the Town’s acquisition of the West Parcel not taking place by the Outside Closing Date. It is understood and agreed that if the Parties enter into the West Parcel PSA and the Town subsequently defaults on its obligation to acquire the West Parcel, the same shall not be considered a Profit Sharing Trigger Condition. Rather, upon such a default, the Developer shall immediately be relieved of its obligations under this Section 3 to convey the West Parcel to the Town and any requirement to pay the Town’s Share (or any other amount) to the Town upon a sale or other disposition of the West Parcel, without the need for any further documentation to that effect.

Further, should the Developer elect to convey the West Parcel to an entity not subject to taxation by the Town, the Developer shall supply such tax-exempt purchaser with a copy of the Town’s Payment In Lieu of Taxes (PILOT) Policy (a copy of which is attached hereto as Exhibit J and require, as a condition of the Purchase and Sale Agreement with said tax-exempt purchaser, that the purchaser meet with the Town Administrator to discuss PILOT Payments prior to closing.

4. FURTHER PERMITTING. The Developer agrees to use all commercially reasonable efforts to diligently apply for and pursue all permits and approvals necessary to proceed with the Project subject to financing and economic conditions. It is understood that the Developer will be subject to the timeframes applied to the Project by the Proposed Project Zoning Amendment, including all sunset provisions. Further, it is of great importance to the Developer that it be able to commence construction of the Project as soon as possible. Accordingly, to the maximum extent permitted by law, the Town agrees to take such actions as may be reasonably necessary or appropriate to expedite review and approval of the Project so that Developer (or any affiliate thereof) can receive a building permit for the Project as soon as possible. Such actions shall include the formation by the Town of a Design Advisory Team (“DAT”) for the Project as a so-called “Major Impact Project” under the Town’s Zoning By-law within fifteen (15) days after Town Meeting approval of the Proposed Project Warrant Article, and the Town will use best efforts to cause the DAT to begin its review of the Project by no later than July 31, 2020. It is further understood and agreed that the Design Guidelines to be used by the DAT in its review of the Project shall be substantially in accordance with the document attached as Exhibit K hereto. Representatives of the Town Planning Department and Town Counsel’s office will use best efforts to attend all meetings of the Developer and Town Preservation Commission at which the Project is discussed, including without limitation, Developer’s efforts to expedite the lifting of the stay of demolition of affected buildings on the East Parcel under the Town’s Demolition Delay By-law.
5. RECORDING OF AGREEMENT AND EXECUTION OF TAX CERTAINTY AGREEMENT. Upon satisfaction of the Town Meeting Approval Conditions Developer shall immediately record this Agreement with the Registry at its own expense and shall provide evidence of such recording to Town Counsel; and ii) Developer and the Town shall execute the Tax Certainty Agreement and Developer shall deliver the same to a mutually agreed upon escrow agent to be held in escrow pursuant to mutually agreed upon conditions under the provisions of this Agreement (the “Escrow Agent”). In the event the Town Meeting Approval Conditions are not satisfied by January 31, 2021, and the Developer elects to abandon its permit application and relinquish its right to pursue the Project prior to the issuance of a Special Permit contemplated by the Proposed Project Zoning Amendment, this Agreement and the obligations set forth in the Tax Certainty Agreement shall become null and void and of no force and effect.
6. RECORDING OF TAX CERTAINTY AGREEMENT. In the event that the Special Permit and Other Required Approvals are satisfied, Developer shall deliver notice thereof to the Escrow Agent, who shall promptly thereafter record with the Registry the Tax Certainty Agreement. In the event that the Special Permit and Other Required Approvals are not satisfied, or Developer does not proceed with the Project, either party may deliver notice to the Escrow Agent (with a copy to the other party

hereto), and the Escrow Agent shall thereafter immediately return the original copy of the Tax Certainty Agreement to Developer. In such case where the Tax Agreement is returned to the Developer, all further obligations set forth in this Agreement shall become null and void and of no force and effect.

7. TAXABLE PERSONAL PROPERTY. The Developer agrees to have the personal property associated with the Project held in an entity taxable to the Town, and taxed at the applicable commercial rate. In the event of a conveyance of the Project to a third party in a bona fide transaction, the Developer shall take steps to ensure this standard remains in place, absent any changes to the applicable laws or regulations.

8. SUSTAINABLE DESIGN. Upon execution of this Agreement, the Town and the Developer agree to work in a voluntary partnership such that the development process of the Project will explore, pilot and innovate sustainable practices from conceptual design through full occupancy (“Voluntary Sustainability Partnership”). The purpose of this Voluntary Sustainability Partnership is to create replicable best practices that will be shared by the Town and the Developer, to the benefit of the Town, the Developer, and the larger community. Without limiting the generality of the foregoing, the Developer will undertake the following in connection with the construction and operation of the Project (referred to herein as the “Sustainability Undertakings”)
 - a. The Project will be constructed in a manner so as to be LEED-NCv4 Gold Certifiable.
 - b. The Project will not use natural gas or fuel oil except as necessary for the commercial kitchens, emergency generator, indoor swimming pool and domestic hot water.
 - c. Developer will implement certain sustainable design principals as follows
 - (i) Consider the use of permeable pavements such as permeable asphalt for driveways and parking areas, and permeable concrete pavers for the vehicular entry plaza, Holland Rd. Overlook, and other site features where feasible.
 - (ii) Stormwater control measures will optimize on-site filtration using rain gardens and bioswales.
 - (iii) Installation of native and drought tolerant plants and bird-friendly and pollinator plants.
 - (iv) Use of Electric vehicles for on-site fleet of passenger vehicles for transporting Project residents, including providing electric vehicle charging stations in excess of current Town requirements for Project residents and guests. On-site fleet will be registered in Massachusetts and garaged at the

property in a manner that allows the application of Town vehicle excise tax.

- (v) Providing bicycle parking on site to accommodate residents, staff, and visitors with shower and dressing room access to be provided to employees who may choose to bike to work.
 - (vi) Use of full cut-off exterior light fixtures with LED lighting and pole mounted fixtures limited to surface parking areas.
 - (vii) Provide visual and physical access to vegetation.
 - (viii) General design spaces designed to support social connection.
 - d. To the extent feasible as reasonably determined by the Developer, it will implement so-called Passive House strategies to reduce energy use.
 - e. Developer will optimize energy efficiency of building systems, including
 - (i) Providing water-efficient plumbing fixtures,
 - (ii) Performing Building Commissioning, and
 - (iii) Training for Operations and Maintenance
 - f. To the extent feasible as reasonably determined by the Developer, Developer will implement WELL strategies to provide users with a healthy building, including
 - (i) Optimizing daylighting and views,
 - (ii) Specification of healthy building materials, and
 - (iii) Providing healthy indoor air quality measures
 - g. Developer will optimize the building for solar renewable energy measures and will consider photovoltaic and solar thermal where feasible.
9. VOLUNTARY SPECIAL PERMIT CONDITIONS: The Developer hereby acknowledges that the following conditions of the Special Permits for the Project shall be acceptable to the Developer and shall not be grounds for objection to the Special Permits granted by the Brookline Zoning Board of Appeals (Board of Appeals):

- a) To the fullest extent permitted by law, the Developer shall comply with all terms of this Memorandum of Agreement, as such Agreement may be amended from time to time, in accordance with the provisions herein.
- b) The Project will include a maximum of 160 units of which no more than 120 shall be a combination of independent living units (IL) and assisted living (AL) units, with the balance to be memory care (MC) units, it being understood that the precise unit mix may change from time to time in accordance with the provisions of this paragraph. The base numbers of 80 IL units and 40 AL units may vary such that there will be between 74 and 86 IL units and between 34 and 46 AL units, subject to the cap of a total of 120 IL and AL units. Further, to the extent there are fewer than 120 IL and AL units, the number of units below 120 may be MC units. Nothing in this

paragraph shall preclude Developer from reducing the overall number of units in the Project (such as, by way of example, only combining separate units into a single unit). The following are examples only of permissible unit mixes: (1) 74 IL, 40 AL, 46 MC; (2) 74 IL, 46 AL, 40 MC; (3) 76 IL, 36 AL, 48 MC; (4) 70 IL, 30 AL, 40 MC.

- c) The Project will have bulk and dimensional limits meeting the requirements of the Proposed Project Zoning Amendment, and have parking provided for 98 vehicles, of which only 55 may be surface parking.
- d) In accordance with the Proposed Project Zoning Amendment, if Developer determines that the number of surface parking spaces (55) can be reduced without impacting the neighborhood it may seek a modification to the Special Permit to reduce the surface parking subject to review and approval by the Director of Engineering and Transportation.
- e) All illuminated exterior signage shall be designed and installed with the ability to be automatically dimmed after midnight.
- f) Developer will comply with the Sustainability Conditions.
- g) Unless otherwise agreed to by the Preservation Planners the applicant shall, using available records and to the extent it is feasible to do so, provide historic documentation of the following buildings on the East Parcel, prior to the issuance of a demolition or other building permit with respect to such buildings: _____. Issuance of the demolition permit shall be evidence that this condition has been satisfied.
 - i. This documentation shall include:
 - 1. background information: the historic and common names of the property, documentation of date of construction, complete stylistic and/or architectural description of the resource, description of architectural and/or associative significance using reliable sources, contextual information that equates the significance of the property, original and current function, and the name and biographical information of architect and/or builder.
 - 2. drawings, maps, and historic images: site plan showing footprint of the subject resource and surrounding buildings; sketch floor plans of existing conditions of all levels of each building, or copies of original plans if available (8 ½ x 11 format or digital format); if available, clear copies of historic

photographs; USGS quad/topo map indicating location of property with UTM's;

3. photographs of: overall site showing context and setting; each exterior elevation of subject property; detail images of significant character-defining features, such as windows, doors, eave details, porches, balconies, etc.; general views of all significant interior spaces; detail images of significant structural details if building is of a rare construction method (i.e. post and beam, balloon framing, mortise and tenon joinery, etc.). All photos must be identified with a list of the photographs indicating property name, address (city, county), date of photograph(s), and view; unmounted.
 - ii. All non-photographic documentation shall be submitted in 8 ½ x 11 format and printed on archivally stable paper (25% cotton bond or better) and provided in digital format (min 300dpi).
 - iii. All photographic documentation shall be provided in 5x7 or 8x10 format using archival quality paper and provided in digital format (min 300 dpi).
- h) Developer shall propose a Transportation Demand Management Plan for approval by the Director of Engineering & Transportation and the Planning and Community Development Director (or designee).
- i) The Project Operator will partner with the Council on Aging and/or Brookline CAN on various cultural, educational and/or musical/artistic events at least quarterly per year with the location and logistics of such events to be agreed to in advance by the Project Operator and the Director of the Council on Aging or Brookline CAN as the case may be. Such events shall be at either the Project Site or the Senior Center or other public place as mutually agreed upon. The Developer has also agreed to make a voluntary contribution of \$2500 per year to the Brookline Multi-Service Senior Center Corporation to support its programming for so long as the Developer or any affiliate thereof owns and operates the Project.
- j) Developer will provide community space for meetings of local neighborhood associations or other Brookline non-profits a minimum of twelve times per year.
- k) Developer will provide a landscaped buffer to abutters on the South side entry.

- l) Developer will remove the existing curb cut on Holland Road to reduce traffic.
- m) Developer will provide a Public Easement Area to create a green buffer on Fisher Ave and maintain the existing trees on Fisher Ave (with an approximate current value of \$276,000). The Public Easement Area shall be subject to a Tree Protection Plan, which shall be submitted to the Tree Warden for his review and approval. Trees within the Public Easement Area shall be maintained at Developer's cost.
- n) On-site and off-site pedestrian and landscaping improvements equivalent to those shown and diagrammed on Exhibit B;
- o) Additional pedestrian, bicycle, and traffic infrastructure mitigation may be required subject to further study and analysis during the Major Impact Project review process. Such mitigation is anticipated by Developer to include the following:
 - i. Bicycle parking on site to accommodate residents, staff, and visitors with shower and dressing room access to be provided to employees who may choose to bike to work.
 - ii. To the extent feasible, new on-site pedestrian walkways will provide connectivity to/from the existing public sidewalk and crosswalk network around the site to enhance pedestrian mobility for residents and employees.
- p) Developer will maintain the Mitton House and its addition for adaptive reuse in its Project design.
- q) The Project operator will hold a job fair at the Brookline Teen Center or other public venue, and to the extent permitted by law will give qualified Brookline residents preference for jobs at the facility. In order to make Brookline residents aware of job opportunities the Project operator will send a notice at reasonable intervals of such job opportunities to the Town's Director of Diversity and Inclusion and he/she may post and/or share with other interested parties. The Project operator will also work with the Brookline High School culinary arts and restaurant program to provide, from time to time paid or unpaid internship opportunities for students engaged in the culinary arts program at the High School.
- r) Developer will pay for the relocation and raising of the crosswalk on Fisher Avenue in front of the proposed development.

- s) Balfour Senior Living, or an affiliate thereof shall be the initial manager of the Project.

10. Standard Requirements:

All Parties to this Agreement agree that the Project shall not, by way of this Agreement or the Proposed Project Zoning Amendment, be exempt from any charges, fees, monetary or otherwise, that have been promulgated as of the date hereof pursuant to statute, by-law, regulation or written policy.

11. Undertakings of the Town:

On _____, 2020 the Select Board voted favorable action on the Proposed Project Zoning Amendment, Tax Certainty Agreement, the Proposed West Parcel Warrant Article and a Warrant Article related to the general authorization for this Memorandum of Agreement subject to the terms and conditions of this Agreement and shall convey its votes and favorable report to the Advisory Committee and in the Combined Reports which shall be delivered to all Town Meeting Members. The Select Board shall support and undertake action necessary to obtain the approval of the Attorney General of The Commonwealth of Massachusetts of the Proposed Project Zoning Amendment by Town Meeting. The Select Board shall also, to the extent appropriate, cooperate with the Developer and shall encourage Town staff to cooperate with the Developer in reviewing in a timely and expeditious manner any required permits and approvals for the Project.

11. Miscellaneous:

- a) It is the intent of the Parties that the obligations in this Agreement shall run with the land comprising the Project and be binding upon and inure to the benefit and burden of the Developer and its mortgage lenders and their heirs, successors and assigns during their respective periods of ownership of and/or interests in the Project and its components and shall survive any transfer of the Property or any portion thereof. The Developer agrees to provide a copy of this Agreement to any transferee of the Property or any portion thereof.
- b) Each of the Parties signing below hereby represents and warrants that it is authorized to enter into this Agreement and execute the same on behalf of, and to bind legally, such Party.
- c) All notices or requests required or permitted hereunder shall be in writing and addressed, if to the Town as follows:

Select Board

Town of Brookline
333 Washington Street
Brookline, MA 0 2445

with a copy to:

Town Counsel
Office of Town Counsel
333 Washington Street
Brookline, MA 02445

If to Developer addressed as follows:

Welltower Inc.
4500 Dorr Street
Toledo, OH 43615
Attention: General Counsel

with copies to:

Welltower Inc.
767 5th Avenue, 8th Floor
New York, NY 10153
Attention: Investment Team

Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110
Attention: Steven Schwartz, Esq.

Jennifer Dopazo Gilbert, Esq.
Law Office of Robert L. Allen, LLP
300 Washington Street
Brookline, MA 02445

Each of the Parties shall have the right by notice to the other to designate additional parties to whom copies of notices must be sent, and to designate changes in address. Any notice shall have been deemed duly given if mailed to such address postage prepaid, registered or certified mail, return receipt requested, on the date the same is received or when delivery is refused, or if delivered to such address by hand or by nationally recognized overnight courier service, fees prepaid, when delivery is received or when delivery is refused, or if transmitted by facsimile or other electronic means with

confirmatory original by one of the other methods of delivery herein described, on the date so transmitted by facsimile or other electronic means. If and to the extent that either of the Parties is prevented from performing its obligations hereunder by an event of force majeure, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the Parties instead shall negotiate in good faith with respect to appropriate modifications to the terms hereof to confer the benefits to each respective party as contemplated by this Agreement. For purposes of this Agreement, the term force majeure shall mean any cause beyond the reasonable control of the affected party, including without limitation: acts of God, fire, earthquake, floods, explosion, actions of the elements, war, terrorism, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market; failure of transportation, strikes, lockouts; actions of labor unions; condemnation, laws or orders of governmental or military authorities, requirement of statute or regulation, action of any court, regulatory authority, or public authority having jurisdiction; or any other cause similar to the foregoing, not within the reasonable control of such party obligated to perform such obligation. With respect to any particular obligation of Developer only, the term force majeure shall include the denial or, refusal to grant or appeals of any permit or approval of any public or quasi-public granting authority related to the Town Meeting Approval Conditions and Special Permit and Other Required Approvals, and any litigation brought by a third party relating to any such obligation.

- d) Failure by the Developer to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until the Developer fails to commence to cure, correct or remedy such failure within sixty (60) days of the receipt of written notice of such failure from the Town to the Developer and thereafter fails to complete such cure, correction or remedy within ninety (90) days of receipt of such written notice or, with respect to defaults which cannot reasonably be cured, corrected or remedied within such ninety (90) day period, within such additional period of time as is reasonably required to remedy such default, provided the Developer exercises due diligence in the remedying of such default and notifies the Town of the steps being taken to remedy the default.
- e) The Parties agree that time is of the essence with respect to the obligations of the Parties as set forth herein. Subject to market conditions and financing availability, the Developer agrees to use best efforts to diligently apply for the necessary special permits and then expeditiously as possible after the issuance of the Special Permit(s) for the Project to apply for all necessary building permit(s) and to diligently commence work on the Project subject to the terms herein. The Town agrees to request an expedited determination from the

Office of the Attorney General with respect to the Proposed Project Zoning Amendment.

- f) The obligations of the Developer do not constitute the personal obligations of the Developer's employees, shareholders, members, directors or officers and the Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise. In no event shall the Developer be liable for any incidental, indirect, punitive or special or consequential damages.
- g) Each Party agrees from time to time, upon not less than ten (10) days' prior written request from the other, to execute and deliver a statement in writing certifying that this Agreement is in full force and effect (or if there have been any modifications, setting them forth in reasonable detail), and that there are no uncured defaults of either Party under this Agreement (or, if not, specifying the respects in which the requesting party is not in compliance in reasonable detail), in form reasonably acceptable to and which may be relied upon by any prospective purchaser, tenant, mortgagee or other party having an interest in the Property and any component of the Project.
- h) Upon full performance by the Developer of its obligations hereunder, the Town, at the Developer's request shall issue a statement in a form appropriate for recording with the Registry stating that all of the terms of this Agreement have been satisfied.
- i) Whenever the consent or approval of any party is required for another party to take an action under this Agreement, except where explicitly provided to the contrary, such consent or approval shall not unreasonably be withheld, delayed or conditioned.
- j) This Agreement shall be deemed to have been executed within the Commonwealth of Massachusetts and the rights and obligations of the Parties shall be governed by Massachusetts law. Any action to enforce the terms of this Agreement shall be brought in Norfolk County Superior Court.
- k) If any provision of this Agreement or the application of such provision to any person or circumstances shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement or the application of the provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected and shall be valid and enforceable to the fullest extent.
- l) This Agreement and the accompanying 95-year Tax Certainty Agreement set forth the entire agreement of the Parties with respect to the subject matter thereto. The failure of any party to strictly enforce the provisions hereof shall

not be construed as a waiver of any obligation hereunder. This Agreement may be modified only in a written instrument signed by the Select Board and the Developer.

- m) Non-discrimination: Developer agrees to fully comply with the federal, state, and local nondiscrimination laws, including the provisions of Mass. Gen. Laws, Chapter 151B, in its employment practices, its contracting, and its procurement of goods and services. Developer further agrees that it will take commercially reasonable affirmative steps to establish fair access to employment opportunities at the project with the goal of attempting to create a workforce that is an accurate reflection of the demographics of the qualified available workforce in the Boston /Brookline /Newton geographic area or other area from which the type of employees sought are located.
- n) M/WBE contracting/Procurement: Developer commits to work with the Brookline Office of Diversity, Inclusion, and Community Relations (the Diversity Office) (1) to identify minority and women contractors and subcontractors for the development of the project, (2) to identify minority and women vendors to provide goods and services to the project during construction and once it is operational, and (3) to establish goals for the number of contractors and subcontractors it will attempt to use and the amount of procurement from minority and women vendors and service providers it will attempt to purchase. Once a year Developer agrees to report to the Diversity Office the extent to which it succeeds in achieving its goals as stated above.

(The Remainder of this Page is Intentionally Left Blank – Signature Pages follow)

April 27, 2020 version

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the date first written above.

DEVELOPER

WELLTOWER INC.

By: _____

Its:

Title:

WELLTOWER TRS HOLDCO LLC

By: _____

Its:

Title:

Dated: _____

TOWN OF BROOKLINE SELECT BOARD

Dated: _____

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

I hereby certify that on this _____ day of _____, 2020, personally appeared the above named _____, and provided identification in the form of _____, and who executed the foregoing as his free act and deed as _____ of _____.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

I hereby certify that on this _____ day of _____, 2020, personally appeared the above named _____, and provided identification in the form of _____, and who executed the foregoing as his free act and deed as _____ of _____.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

I hereby certify that on this _____ day of _____, 2020, personally appeared the above named _____, _____, _____, and _____, personally known to me and who executed the foregoing as their free act and deed as members of the Select Board of the Town of Brookline acting on behalf of the Town of Brookline.

Witness our hands and seals at Norfolk County, Brookline, Massachusetts, this ____ of _____, 2020.

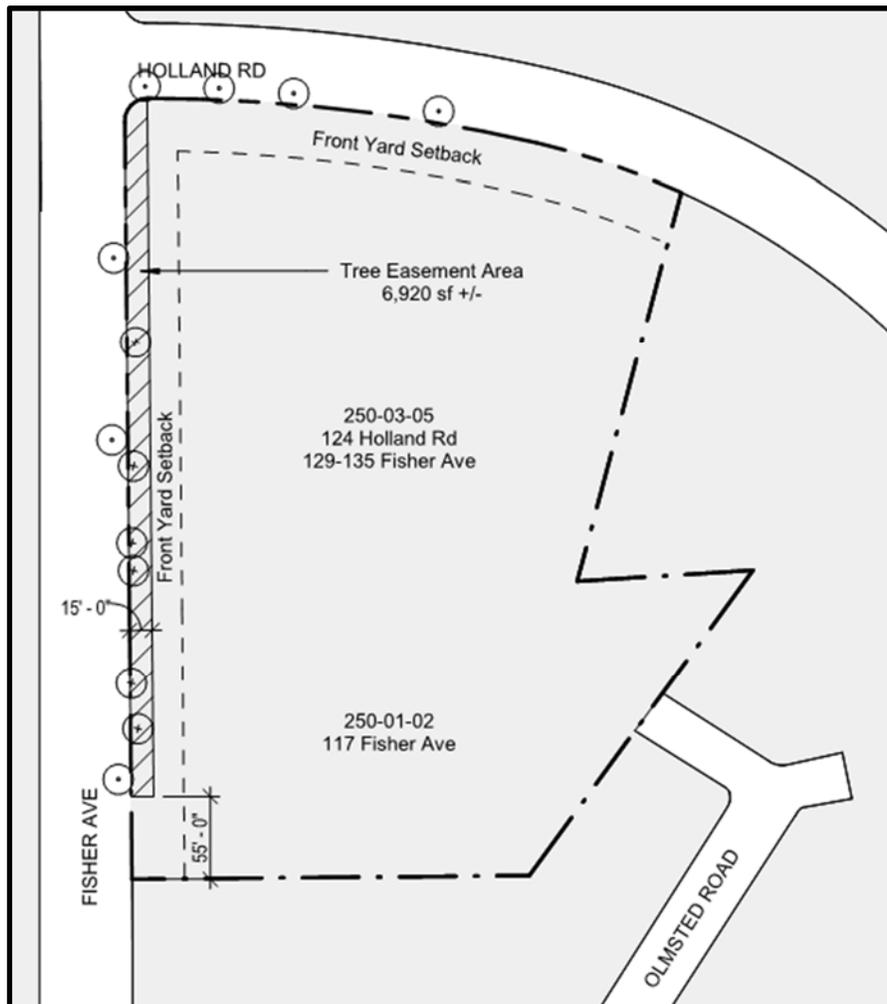
Notary Public
My Commission Expires:

ARTICLE 12

TWELFTH ARTICLE

Submitted by: Paul Saner, on behalf of the Newbury Zoning Committee

To see if the Town will vote to authorize the Select Board, on such terms and conditions that are in the best interest of the Town, to accept a grant of easement from Welltower Inc., a Delaware corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, or one of its successors or assigns (“Grantor”), over portions of land located at what is now known as 117 Fisher Avenue (Parcel I.D. No. 250-01-02) and 124 Holland Road, 129-135 Fisher Avenue (Parcel I.D. No. 250-03-05), Brookline, Massachusetts and substantially shown as Tree Easement Area, containing an area of approximately 6,920 s.f. +/-, on the sketch included with this Article for the purposes of maintaining six trees and a green buffer along Fisher Avenue in connection with Grantor’s development of a senior living facility at the site, said easement will be further described in an Easement Agreement and plan to be recorded at the Norfolk County Registry of Deeds upon future acceptance by the Select Board.



Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article will authorize the Select Board to accept an easement from Welltower Inc. the developer of the so-called East Parcels at the former Newbury College site in order to maintain six trees and a green buffer on a portion of Fisher Avenue in connection with the proposed development of a senior living facility at the site. This easement will also allow for the linkage to the site for the Town's Tax Certainty Agreement for the East Parcels.

This warrant article is one of seven warrant articles related to Welltower's proposed development on the former Newbury College campus. For more information on how this warrant article fits into the larger package, please review the explanation for the warrant article titled "Fisher Hill Special Overlay District Zoning" proposing a rezoning of the east side of the former Newbury College campus.

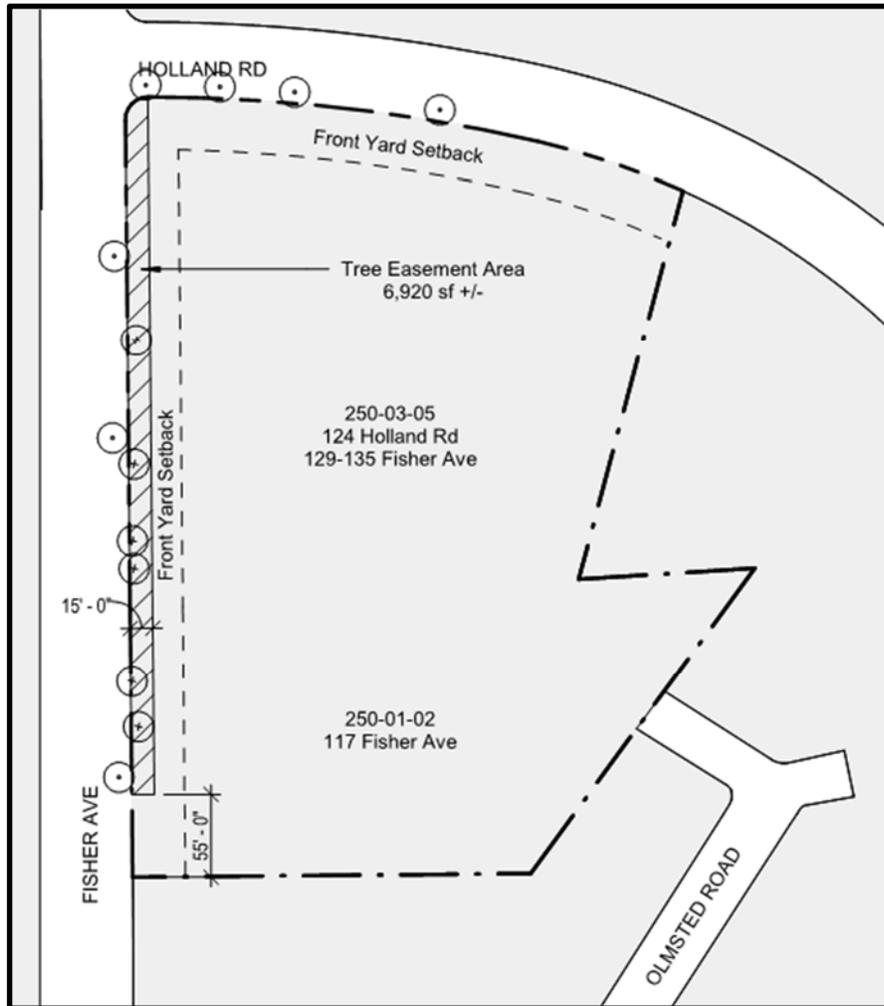
SELECT BOARD'S RECOMMENDATION

Please see the Board's report for this article presented under Article 9. A unanimous Select Board voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

Please see the summary on this article provided under Article 9. The Advisory Committee by a unanimous 27-0-1 vote recommends FAVORABLE ACTION the following motion

VOTED: That the Town vote to authorize the Select Board, on such terms and conditions that are in the best interest of the Town, to accept a grant of easement from Welltower Inc., a Delaware corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, or one of its successors or assigns ("Grantor"), over portions of land located at what is now known as 117 Fisher Avenue (Parcel I.D. No. 250-01-02) and 124 Holland Road, 129-135 Fisher Avenue (Parcel I.D. No. 250-03-05), Brookline, Massachusetts and substantially shown as Tree Easement Area, containing an area of approximately 6,920 s.f. +/-, on the sketch included with this Article for the purposes of maintaining six trees and a green buffer along Fisher Avenue in connection with Grantor's development of a senior living facility at the site, said easement will be further described in an Easement Agreement and plan to be recorded at the Norfolk County Registry of Deeds upon future acceptance by the Select Board.



XXX

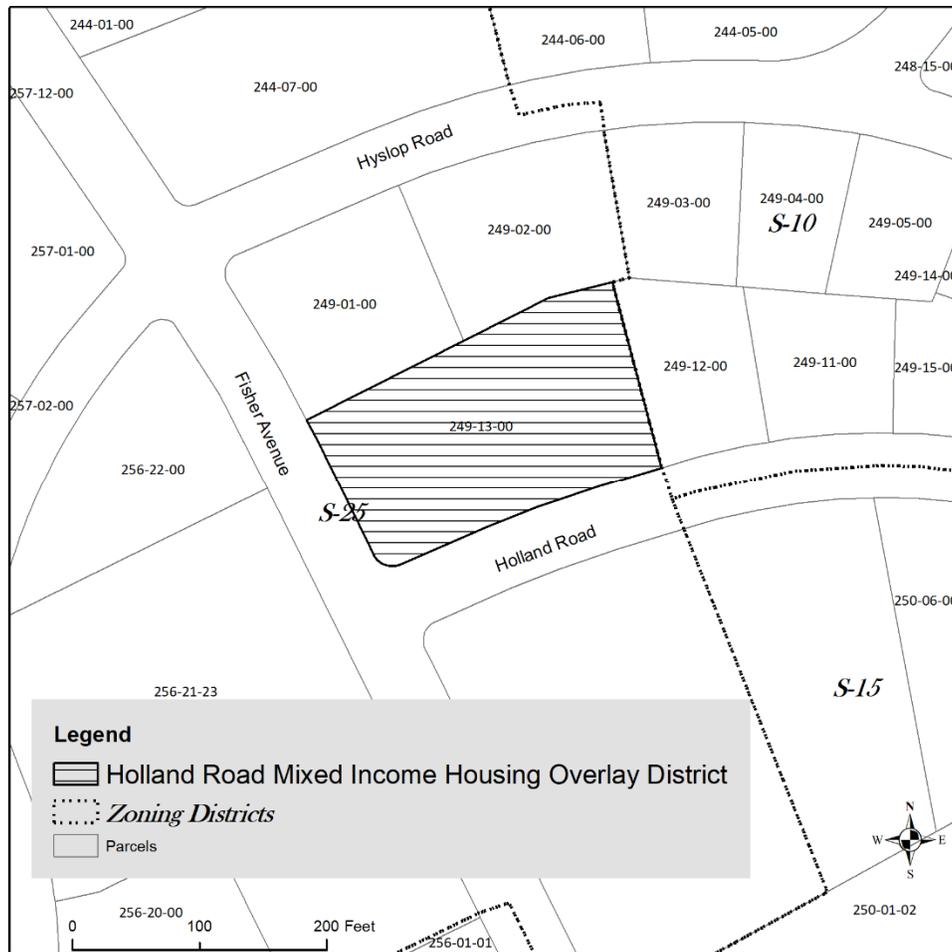
ARTICLE 13

THIRTEENTH ARTICLE

Submitted by: Paul Saner, on behalf of the Newbury Zoning Committee

To see if the Town will amend the Zoning By-law and Zoning Map as follows:

1. By adopting the following map change: adding a Holland Road Mixed Income Housing Overlay District including the parcel located at 125 Holland Road (Tax



Parcel Identification #s 249-13-00), as shown in the map below.

2. By amending Section 3.01.4 by inserting a new item “h” as follows:

h. Holland Road Mixed Income Housing Overlay District

3. By amending Section 5.06.4 by inserting a new item “m” as follows:

m. *Holland Road Mixed Income Housing Overlay District*

- 1) It is found that the parcel of land at 125 Holland Road, formerly a part of the Newbury College campus (the “Site”) has been identified by the Newbury Zoning Committee, based on a recommendation from the Housing Advisory Board, as an appropriate site for mixed-income affordable housing development. For this reason, a developer may opt to develop the Site in accordance with the requirements of this overlay district.
- 2) Any applicant may seek relief under this overlay, provided the applicant’s proposed development meets the following requirements:
 - a. It contains 18 Dwelling Units, contained in a single building.
 - b. Six (6) of the Dwelling Units on the Site must be Affordable Units (as defined in Section 4.08.2.c.) for households with incomes up to 80% of Median Income, defined in accordance with Section 4.08.2.f and which must also qualify for the Town’s Subsidized Housing Inventory as per Massachusetts General Laws Chapter 40B and 760 CMR 56. Six (6) of the Dwelling Units on the Site must be Affordable Units for households with incomes up to 100% of Median Income. Six (6) of the Dwelling Units on the Site must be Affordable Units for households with incomes up to 150% of Median Income.
 - c. It has a viable plan for maintaining affordability for the longest period permitted by law that has been approved by the Department of Planning and Community Development.
- 3) Multi-Family Dwellings. Superseding any conflicting restrictions in Section 4 of the Zoning Bylaw, any development proposed pursuant to the requirements of this overlay district:
 - a. may include Multi-Family Dwellings;
 - b. is not required to meet the requirements of Section 4.08, with the exception that the development must meet the “Standards” requirements

listed under Section 4.08.6. With respect to the standard for unit sizes described in 4.08.6.c, any project proposed pursuant to this section will be deemed to meet the standard if the average unit size for the units with the applicable bedroom count meets or exceeds the listed square footage, so long as no individual unit has less than 95% of the prescribed square footage.

- 4) All applications in the Holland Road Mixed Income Housing Overlay District shall be subject to §5.09, Design Review, including any applicable Design Guidelines adopted by the Planning Board. Further, the Zoning Board of Appeals shall be empowered to require such other conditions as it deems necessary to bring the project into conformance with the goals of this overlay district, including a modification of the affordability requirements in 5.06.4.m2.b. The Zoning Board of Appeals may only grant a modification of the affordability requirements in 5.06.4.m.2.b that raises the applicable Median Income levels following a favorable recommendation from the Housing Advisory Board and in no case shall the affordability requirements be modified to provide fewer than 4 Affordable Units for households with incomes up to 80% of Median Income and 4 Affordable Units for households with incomes up to 100% of Median Income, and in no case can any of the Affordable Units be available for households with incomes greater than 150% of Median Income.
- 5) Dimensional and Parking Requirements. Any development proposed pursuant to the requirements of this overlay district shall be subject to the dimensional requirements listed below, superseding any conflicting requirements in Sections 5 and 6 of the Zoning Bylaw for the underlying zoning district. Any dimensional requirements not specified below shall be required according to the requirements of the underlying zoning district.
 - a. Lot size. A minimum lot size of 35,000 square feet shall be required.
 - b. Floor Area Ratio. An overall maximum Floor Area Ratio of 0.5 shall be permitted.
 - c. Height. A maximum height of 40 feet, measured from the record grade of the midpoint of the lot line along Holland Road, shall be permitted.
 - d. Setbacks. A minimum Front Yard setback of 30 feet, a minimum Side Yard setback of 40 feet, and a minimum Rear Yard setback of 40 feet shall

be provided. Relief from these setback requirements may be sought under Section 5.43.

- e. Open Space. A minimum amount of Landscaped Open Space of 40% of Gross Floor Area and a minimum amount of Usable Open Space of 10% of Gross Floor Area shall be provided.
- f. Parking. Parking shall be provided at a minimum rate of 1 space per Dwelling Unit.

Or take any action thereto.

PETITIONER'S ARTICLE DESCRIPTION

This warrant article proposes the creation of a new overlay district, the Holland Road Mixed Income Housing Overlay District, and its establishment over the property at 125 Holland Road – a part of the former Newbury College campus. The overlay district allows an applicant to develop the land for the purpose of mixed-income housing provided it complies with the provisions of the overlay district. Those provisions include a requirement that the mixed-income housing development include exactly 18 units, six of which must be affordable to households with incomes up to 80% of median income, six of which must be affordable to households with incomes up to 100% of median income, and six of which must be affordable to households with incomes up to 150% of median income. These affordability requirements could be modified by the Zoning Board of Appeals if the Housing Advisory Board recommends doing so. The Overlay District also imposes a few dimensional requirements that are generally more restrictive, but in some cases less restrictive, than the existing underlying zoning. All developments proposed pursuant to this Overlay District would require Design Review with the Planning Board and a Special Permit from the Zoning Board of Appeals.

This warrant article is one of seven warrant articles related to Welltower's proposed development on the former Newbury College campus. For more information on how this proposed rezoning fits into the larger package, please review the explanation for the warrant article titled "Fisher Hill Special Overlay District Zoning" proposing a rezoning of the east side of the former Newbury College campus.

PLANNING BOARD REPORT AND RECOMMENDATION

Warrant Article Description

Article 13, sponsored by the Newbury Zoning Committee, is one of seven articles that comprise the Welltower/Newbury College package of warrant articles. It proposes to create an overlay zoning district that would allow an 18-unit affordable housing development with units serving a range of income levels. This overlay zoning district would apply to the property at 125 Holland Road, which is currently owned by Welltower. It would serve as off-site affordable housing to satisfy the inclusionary zoning requirement for the proposed senior living facility on the other parcels constituting the east-side of the former Newbury College campus.

The proposed overlay zoning district would allow an applicant to seek relief under the overlay if the applicant is proposing a housing development that contains exactly 18 units, has a viable plan for maintaining affordability, and provides a specific breakdown of affordability, as follows: six units that are affordable to households with incomes up to 80% of the Area Median Income (a.k.a. AMI); six units that are affordable to households with incomes up to 100% of AMI; and six units that are affordable to households with incomes up to 150% of AMI. The by-law would empower the Zoning Board of Appeals to modify this affordability distribution, but any modification that raises the applicable AMI levels (i.e. making the units less affordable) would require a favorable recommendation from the Housing Advisory Board, and in no case could the affordability requirements be modified to provide fewer than four units each for households with incomes up to 80% and 100% of AMI and, further, in no case could any of the units be available for households earning greater than 150% of AMI.

The overlay zoning district would also require that any proposed housing development pursuant to this by-law be subject to Design Review per Section 5.09 of the Zoning By-law and comply with the dimensional requirements set forth in the language of the overlay zoning district.

Background

This warrant article is one of seven articles comprising the Welltower/Newbury College package submitted to Town Meeting by the Newbury Zoning Committee. The Newbury Zoning Committee was established in the fall of 2019 by the Select Board and charged with the responsibility of reviewing, analyzing, and proposing modifications to the redevelopment proposal presented by the proposed buyer and ultimate owner (Welltower) of the former Newbury College campus to construct a continuum-of-care facility on the “east side” of the property and to sell the “west side” of the property to the Town of Brookline for municipal and/or school uses.

By February 2020, the Newbury Zoning Committee and Welltower came to agreement on the scale, program, site plan, massing, and basic design of the proposed senior living facility. The facility would contain 160 units, 40 of which were deemed by the Building Commissioner exempt from the application of the Zoning By-law's inclusionary zoning requirements due to their nature as memory-care units that are heavily reliant on services. Section 4.08 (Affordable Housing Requirements) of the Zoning By-law requires that housing developments proposing the creation of six or more dwelling units must set aside 15% of the units as affordable units. A preference is expressed in the By-law for the units to be located on-site, but the By-law also allows for off-site units or cash payments (in that order of preference). In the case of the Welltower development and because of the nature of the units in a continuum-of-care facility, the provision of the required 18 units on-site was deemed by both Welltower and the Newbury Zoning Committee as infeasible. Instead, Welltower offered to provide 18 units at an off-site location or a cash payment of \$6,525,000. The Housing Advisory Board voted unanimously to approve both options, but also voted (2-1 with 2 abstentions) to favor the option for off-site units.

The property at 125 Holland Road was part of the former Newbury College campus and is now owned by Welltower. It is located directly across Holland Road from the two parcels of the "east side" of the former Newbury College campus on which Welltower is proposing to construct the senior living facility. In consultations with Town officials, Welltower identified 125 Holland Road as an appropriate site on which to provide off-site affordable units. Accordingly, Welltower has agreed to convey the property to an affordable housing developer, New Atlantic, which will be responsible for the construction of an 18-unit mixed-income housing development satisfying the inclusionary zoning requirements of the new overlay zoning district on the "east side". In this arrangement, memorialized by a section of the Memorandum of Agreement, Welltower would contribute the land and existing building, valued at \$3.027 million, and \$3.123 million cash to fund New Atlantic's development. In addition, Welltower will make up to \$650,000 available for contingencies that may arrive during construction of the new development.

As the property at 125 Holland Road is currently zoned for single family (S-25), this zoning warrant article puts in place a zoning overlay district making available the zoning necessary for this proposed development. If Town Meeting opts not to approve this zoning proposal, the inclusionary zoning requirements for the Welltower development would instead be met with a cash payment of \$6,525,000, which would be earmarked for the Brookline Housing Authority (BHA) to replace BHA's Colonel Floyd Apartments, a 60-unit low-income senior rental complex on Marion Street with a 100-unit facility, thereby creating an additional 40 low-income units.

Zoning By-law Committee Recommendation

The Zoning By-law Committee held a Public Hearing to discuss Warrant Article 13 on May 13, 2020. Committee members did not raise any specific concerns with the proposed overlay zoning district, but briefly discussed the preservation of the existing building, the

height of the existing building compared to the overlay's height maximum, and the room counts of the units proposed in the housing development. The Committee felt that the proposed zoning provides adequate zoning relief for the Welltower-New Atlantic affordable housing plan, but eschewed any recommendation on whether that affordable housing solution is preferred over the cash payment. Therefore, the Committee voted unanimously to recommend Warrant Article 13 as the appropriate zoning solution if Town Meeting chooses the affordable housing plan involving an 18-unit mixed-income housing development at 125 Holland Road.

PLANNING BOARD RECOMMENDATION

The Planning Board held a joint Public Hearing with the Select Board on May 12, 2020 where the sponsors of the Article gave a presentation and where the Planning Board and Select Board received comments from the public. The Planning Board continued the Public Hearing to May 20, 2020 where the Planning Board discussed the Article, asked questions of the Article's sponsors, and solicited further public comment. The Board invited proponents of both the Holland Road inclusionary zoning option and the cash payment option to make brief advocacy statements. Proponents of the Holland Road option (the option associated with Article 13) believe strongly that the Brookline Housing Authority will be able to find alternative funds for their projects and believe that the opportunity to locate affordable housing in the Fisher Hill neighborhood is unique and unrepeatable and therefore should be taken advantage of (this opportunity would be lost with the failure of Article 13). They further highlight the unusual nature of these affordable units as ownership units aimed at moderate-income families. Proponents of the cash option (associated with the failure of Article 13) maintain that the Brookline Housing Authority will likely not be able to find such a large source of funding elsewhere and they emphasize the much larger number of new units, greater need of targeted residents, and deeper level of affordability that could be provided through the use of a cash payment towards the renovation of the Colonel Floyd Apartments. The Board briefly discussed the possibility of approving the zoning proposed by Article 13 while simultaneously choosing to receive a cash payment from Welltower, and thereby allowing the Holland Road site to be developed for affordable housing by a separate developer at a later date. Some members of the Board also raised some concerns with the funding for BHA projects given the current economic climate and suggested that even a \$6.5 million cash payment could be insufficient; representatives of the BHA assured the Board that this is not a concern. Ultimately, the Planning Board felt that both options had merit but voted unanimously to support Article 13 and the associated Holland Road mixed-income housing development.

The Planning Board voted 4-0 to recommend favorable action on Warrant Article 13, the Holland Road Mixed Income Housing Overlay District.

SELECT BOARD'S RECOMMENDATION

The Select Board held a joint Public Hearing with the Planning Board on May 12, 2020 where the sponsors of the Article gave a presentation and where the Planning Board and Select Board received comments from the public. The Select Board took the matter up again at its meeting on May 19, 2020. While the Select Board felt that the 125 Holland Road option had merit, the opportunity for such a substantial infusion of money for affordable housing combined with a clear plan to provide significantly more net new units (along with an even larger number of new units replacing outdated ones) made it the more attractive choice. It is the Board's understanding that the way for Town Meeting to similarly choose the Colonel Floyd Apartments renovation is a negative vote on Article 13.

The Select Board voted 2-3 and recommends NO ACTION on Warrant Article 13, the Holland Road Mixed Income Housing Overlay District.

ROLL CALL VOTE:

Aye:

Greene

Heller

No:

Franco

Hamilton

Fernandez

ADVISORY COMMITTEE'S RECOMMENDATION

Please see the summary on this article provided under Article 9. The Advisory Committee by a unanimous 0-27-1 vote recommends NO ACTION on Article 13, indicating support for the Col. Floyd project.

XXX

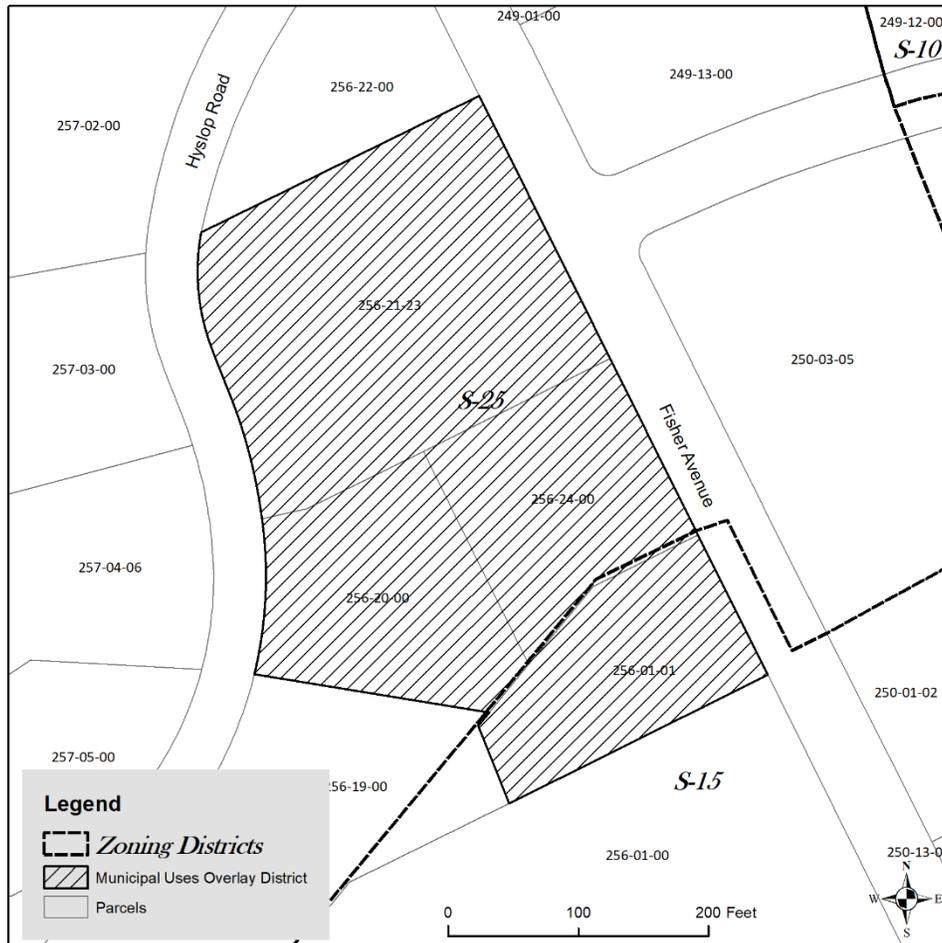
ARTICLE 14

FOURTEENTH ARTICLE

Submitted by: Paul Saner, on behalf of the Newbury Zoning Committee

To see if the Town will amend the Zoning By-law and Zoning Map as follows:

1. By adopting the following map change: adding a Municipal Uses Overlay District including the 4 parcels located at 110 Fisher Avenue, 124 Fisher Avenue, 150 Fisher Avenue, and 146 Hyslop Road (Tax Parcel Identification #s 256-01-01, 256-24-00, 256-21-23, and 256-20-00), as shown in the map below.



2. By Amending §3.01.4 by inserting a new item “i” as follows:

- i. Municipal Uses Overlay District

3. By amending Section 5.06.4 by inserting a new item “n” as follows:

n. Municipal Uses Overlay District

- 1) This overlay district is established where the Town finds that certain properties are suitable for the conduct of municipal uses having a minimal impact on surrounding properties and the neighborhood in which they are located. An applicant may opt to develop any property within this overlay district in accordance with the requirements of this overlay district.
- 2) Any applicant may seek relief under this overlay, provided the application meets the following requirements:
 - a. The use is one of the following:
 - i. Municipal or governmental offices, along with associated municipal support services contained within a building.
 - ii. A municipal or governmental educational facility, along with associated accessory uses.
 - iii. Library or museum, open to the public or connected with a permitted educational use, and not conducted as a private gainful business, provided that a Special Permit shall be required for such uses.
 - iv. Recreational facility owned or operated by an agency of the Town, provided that a Special Permit shall be required for such uses.

Or take any action thereto.

PETITIONER’S ARTICLE DESCRIPTION

This warrant article proposes the creation of a new overlay district, the Municipal Uses Overlay District, and its establishment over the 4 parcels that comprise the west side of the former Newbury College campus. The overlay district allows an applicant to use the land for the purposes of municipal or governmental offices and educational facilities by right and for the purposes of public libraries, museums, and recreational facilities by Special Permit. The overlay district also provides allowances for associated support services and uses commonly found in conjunction with the above uses, including, but not limited to, welder and carpenter workshops provided that they are contained within a building.

This warrant article is one of seven warrant articles related to Welltower’s proposed development on the former Newbury College campus. For more information on how this

proposed rezoning fits into the larger package, please review the explanation for the warrant article titled “Authorization to Acquire Former Newbury College West Campus” proposing an acquisition of the west side of the former campus.

PLANNING BOARD REPORT AND RECOMMENDATION

Warrant Article Description

Article 14, sponsored by the Newbury Zoning Committee, is one of seven articles that comprise the Welltower/Newbury College package of warrant articles. It proposes to create a new overlay zoning district that would expand the type of municipal uses allowed under the underlying zoning and establish that overlay zoning district over the four parcels that make up the “west side” of the former Newbury College campus.

The west side of the former Newbury College campus is currently zoned either S-15 or S-25 (single family zoning districts). In Single Family districts, the Town’s Zoning By-law already allows for a few municipal uses, notably educational facilities by right, public recreational facilities by right, and public libraries and museums by Special Permit. The proposed Municipal Uses Overlay District would allow those public uses listed above (although recreational facilities would require a Special Permit) and additionally allow for “*municipal or governmental offices, along with associated municipal support services contained within a building*” by right, thus marginally expanding the breadth of public uses allowed on the property.

Background

This warrant article is one of seven articles comprising the Welltower/Newbury College package submitted to Town Meeting by the Newbury Zoning Committee. The Newbury Zoning Committee was established in the fall of 2019 and charged with the responsibility of reviewing, analyzing, and proposing modifications to the redevelopment proposal presented by the selected buyer and ultimate owner (Welltower) of the former Newbury College campus to construct a continuum of care facility on the “east side” of the property and to sell the “west side” of the property to the Town of Brookline for municipal and/or school uses. In its negotiations with Welltower, the Newbury Zoning Committee was able to establish a purchase price for the west side of the campus (\$14.8 million) and the proposed Municipal Uses Overlay District would alter the zoning of the property to broaden the types of municipal uses allowed on the property.

The Newbury Zoning Committee consulted with Town officials to understand what programmatic needs of the Town and Public Schools of Brookline could be addressed on the 3.13 acres of land and two buildings that make up the west side of the campus. While a long-term use was not identified and will likely not be identified until a robust and comprehensive public input process is conducted, a viable short-term use was identified. Town officials believe that the Academic Building could be repurposed at minimal cost

for a variety of uses, ranging from workshops for the Building Department to office space and meeting rooms for several other departments. None of the proposed uses is anticipated to have a significant impact on abutting properties. All uses would be contained within the Academic Building and traffic to and from the site would be limited to vehicles no larger than pick-up trucks and vans. Because municipal offices and associated support services are not currently allowed in Single Family zoning districts, the zoning of the property needs to be adjusted to allow for this use of the property.

Zoning By-law Committee Recommendation

The Zoning By-law Committee held a Public Hearing to discuss Warrant Article 14 on May 13, 2020. The Committee briefly discussed the variety of potential uses that the Town may find for the property and whether the proposed overlay zoning district adequately provides necessary zoning relief for those uses. After some discussion, the Committee concluded that this Warrant Article only provides the necessary zoning relief for a short-term municipal use that is contained in the existing building. The Committee also discussed the existing parking conditions on the site and whether it is sufficient for various contemplated uses and whether the proposed overlay district should more explicitly state that design review is required for any substantial new construction. The Committee unanimously voted to recommend favorable action on Article 14 but also suggested that the Planning Board examine whether additional zoning relief from parking requirements should be available under the overlay district.

PLANNING BOARD RECOMMENDATION

The Planning Board held a joint Public Hearing with the Select Board on May 12, 2020 where the sponsors of the Article gave a presentation and where the Planning Board and Select Board received comments from the public. The Planning Board continued the Public Hearing to May 20, 2020 where the Planning Board discussed the Article, asked questions of the Article's sponsors, and solicited further public comment. The Board discussed this article and noted the importance of the Design Review process for any new municipal buildings that might be added to the site.

The Planning Board voted 4-0 to recommend favorable action on Warrant Article 14, the Municipal Uses Overlay District.

SELECT BOARD'S RECOMMENDATION

This discussion is relevant only if Articles 9 through 12 are approved. The Town has been presented with an opportunity to acquire the West Campus of Newbury College, and will take steps towards doing so via approval of Article 15 at Town Meeting.

Article 15 authorizes the acquisition of the West Campus and appropriates the money to do so via associated bonding contingent on a successful debt exclusion vote. (Note: if the

debt exclusion election is held after September 15, the bonding authorization will need to be voted again by Town Meeting in November.)

Article 14 creates a new overlay district that expands the type of municipal uses allowed on the west side to include municipal offices with associated support services. Without this zoning change, the Town would be severely limited in its use of the property—particularly in the short-term. Specifically, the currently anticipated short-term use of the Academic Building by the Building Department for offices and shop-related uses would not be allowed. There are no changes to the dimensional requirements within the overlay. This means that any future expansions to the existing footprints will require a zoning change to be voted at a future Town Meeting.

As originally conceived, the debt exclusion question related to Article 15 was to happen at the Town election prior to the originally scheduled Annual Town Meeting in May. Once the magnitude of the health crisis became apparent, the Select Board felt that it was not appropriate or fair to force the Town to vote on such a significant expenditure on the rescheduled Town election on June 9. Therefore, the Select Board opted to remove the debt exclusion question from the ballot before the Annual Town Election. This, in turn, required restructuring the plan for Article 15 as outlined above: the appropriation would now need to be contingent on a future Town-wide referendum. The Select Board is not sure when that vote will occur but intends to make that decision shortly after Town Meeting. Pursuant to the terms of the Memorandum of Agreement between the Town and Welltower it will have to happen no later than the presidential election on November 3, 2020. If the Town does not vote by then, it will void its option to purchase the West Side.

The option to purchase the West Side of the former Newbury College Campus, currently owned by Welltower, at a below-market price of \$14.8 million represents a major benefit to the Town from the proposed Welltower redevelopment of the East Side of the former Newbury College Campus. While the Select Board recognizes that it may feel counterintuitive to characterize \$14.8 million as “below-market”, the fact remains that large, contiguous parcels within the Town are both rare and valuable. The opportunity to acquire one should not be ignored. The negotiated purchase price is \$14.8 Million. If Town Meeting approves acquisition with the debt exclusion contingency, the Select Board will place a debt exclusion of \$14.9 Million on the ballot. The extra \$100,000 is to cover minor capital improvements and closing costs. The accompanying municipal overlay district will allow the Town to immediately realize benefits from the existing buildings on the West Side with no impact to the surrounding neighborhood but is only appropriate if the Town opts to proceed with the purchase.

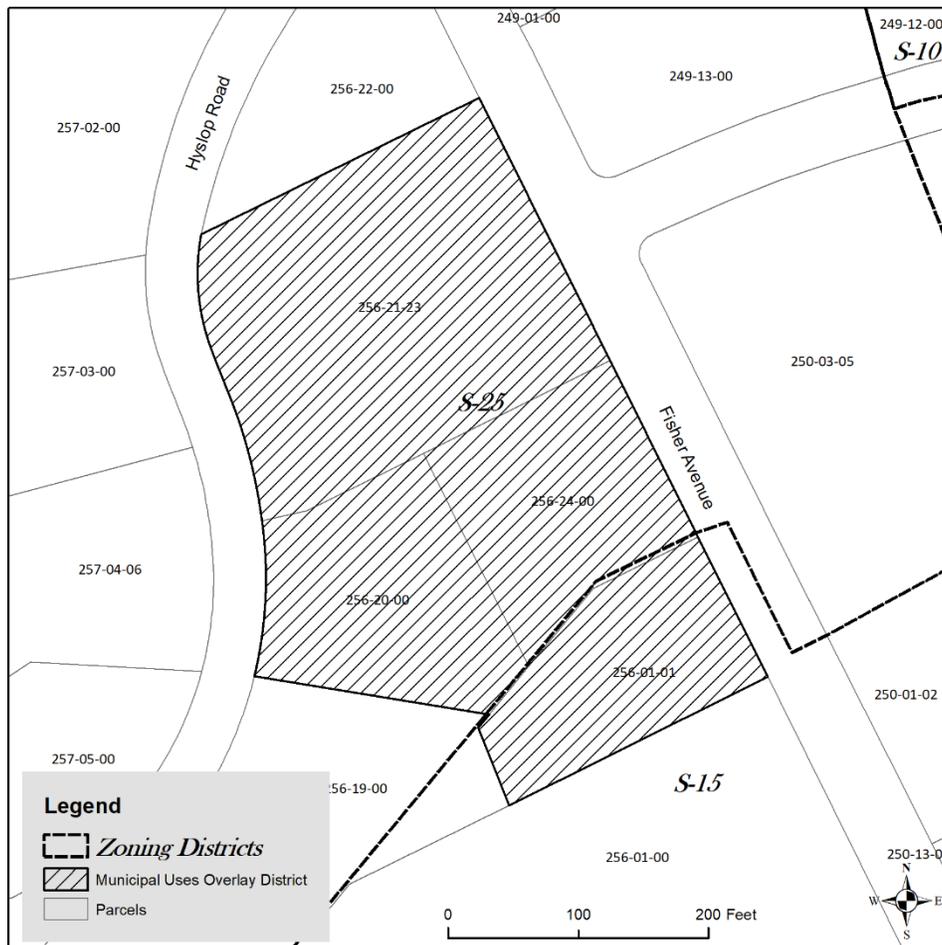
Therefore, the Select Board voted 5-0 to recommend FAVORABLE ACTION the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

Please see the summary on this article provided under Article 9. The Advisory Committee by a unanimous 26-0-2 vote recommends FAVORABLE ACTION encompassed in the following motion:

the Town will amend the Zoning By-law and Zoning Map as follows:

- 4. By adopting the following map change: adding a Municipal Uses Overlay District including the 4 parcels located at 110 Fisher Avenue, 124 Fisher Avenue, 150 Fisher Avenue, and 146 Hyslop Road (Tax Parcel Identification #s 256-01-01, 256-24-00, 256-21-23, and 256-20-00), as shown in the map below.**



- 5. By Amending §3.01.4 by inserting a new item “i” as follows:**

- i. Municipal Uses Overlay District**

6. By amending Section 5.06.4 by inserting a new item “n” as follows:

n. Municipal Uses Overlay District

- 3) This overlay district is established where the Town finds that certain properties are suitable for the conduct of municipal uses having a minimal impact on surrounding properties and the neighborhood in which they are located. An applicant may opt to develop any property within this overlay district in accordance with the requirements of this overlay district.
- 4) Any applicant may seek relief under this overlay, provided the application meets the following requirements:
 - a. The use is one of the following:
 - i. Municipal or governmental offices, along with associated municipal support services contained within a building.
 - ii. A municipal or governmental educational facility, along with associated accessory uses.
 - iii. Library or museum, open to the public or connected with a permitted educational use, and not conducted as a private gainful business, provided that a Special Permit shall be required for such uses.
 - iv. Recreational facility owned or operated by an agency of the Town, provided that a Special Permit shall be required for such uses.

XXX

ARTICLE 15

FIFTEENTH ARTICLE

Submitted by: Paul Saner, on behalf of the Newbury Zoning Committee

To see if the Town will vote to authorize the Select Board to acquire, by purchase, gift, eminent domain or otherwise, in fee simple, the parcels of land located at 110 Fisher Avenue, 124 Fisher Avenue, 150 Fisher Avenue, and 146 Hyslop Road (Tax Parcel Identification #s 255-01-01, 256-24-00, 256-21-23, and 256-20-00) including all buildings and structures thereon and all privileges and appurtenances thereto belonging, as well as all trees and shrubs thereon, for general municipal purposes, and for all purposes and uses accessory thereto, and that to meet such expenditure to appropriate a sum of money to be expended at the direction of the Select Board, to pay costs of acquiring said property, and for the payment of all costs incidental and related thereto, including refurbishment of the buildings thereon, and to determine whether such amount shall be raised by taxation, transfer from available funds, borrowing or otherwise; to authorize the Selectmen to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project or to take any other action relative thereto.

Land Description:

PARCEL I - Tract I (124 Fisher Avenue):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

- | | |
|---------------|---|
| EASTERLY | on Fisher Avenue, one hundred and fifty (150) feet; |
| NORTHERLY | on land now or formerly of Montrose Foundation, Inc., one hundred and sixty (160) feet; |
| WESTERLY | on lot marked "27,329 S.F." on said plan, one hundred eighty and 80/100 (180.80) feet; |
| SOUTHEASTERLY | on land now or formerly of the Sisters of the Holy Cross Inc., seventy seven and 15/100 (77.15) feet; and |
| SOUTHERLY | on the same, eighty-nine and 27/100 (89.27) feet. |

Containing twenty-five thousand and eighty-nine (25,089) square feet of land, more or less, according to said plan.

PARCEL II - Tract II (146 Hyslop Road):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

- WESTERLY on Hyslop Road by two curved lines, one measuring eighty-one and 6/100 (81.06) feet, the other measuring thirty-eight and 68/100 (38.68) feet;
- NORTHERLY by two lines, one measuring thirty-five and 38/100 (35.38) feet, the other measuring one hundred (100) feet;
- EASTERLY by a line, one hundred and eighty and 80/100 (180.80) feet;
- SOUTHEASTERLY by a line, forty-eight and 30/100 (48.30) feet; and
- SOUTHWESTERLY on land now or formerly of Judith Sprague, one hundred eighty- two and 53/100 (182.53) feet.

Containing twenty-seven thousand three hundred twenty-nine (27,329) square feet of land, more or less, according to said plan.

PARCEL III (110 Fisher Avenue):

BEGINNING at the northeasterly corner of the granted premises at a stone bound set in the southwesterly sideline of Fisher Avenue as shown on a plan hereinafter mentioned;

SOUTH 26° 17' 50" EAST by Fisher Avenue 120.00 feet to a point at remaining land of the Commonwealth of Massachusetts; thence

SOUTH 63° 42' 10" WEST by said land of the Commonwealth of Massachusetts 357.80 feet to a point at land now or formerly of Frank R. and Etta P. Pratt; thence

NORTH 39° 28' 50" EAST by said land of Pratt 168.59 feet to a stone bound; thence

NORTH 39° 29' 50" EAST 86.35 feet to a stone bound; thence

NORTH 39° 48' 50" EAST 39.39 feet to a stone bound; thence

NORTH 64° 02' 30" EAST 89.29 feet to the bound first mentioned and the point of beginning.

Containing twenty-six thousand nine-hundred fifty-one (26,951) square feet and being shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Water Division, Land in Brookline to be conveyed to Sisters of the Holy Cross of Massachusetts, The Archbishop Cushing College," dated September 16, 1958, Harold J. Toole, Director of the Water Division and Chief Water Supply Engineer, recorded with said Registry in Book 3700, Page 525.

Excluding so much of the premises that was conveyed by deed from Newbury College, Inc. to Syroos Sanicoff and Ronni M. Sanicoff dated April 28, 2003 and recorded in Book 18778, Page 143, which included the following parcel of land:

A certain parcel of land, now known as and numbered 154 Hyslop Road in said Brookline, shown as Lot A on a plan dated October 10, 2002 and entitled "Subdivision Plan of Land in Brookline, Massachusetts, Norfolk County, I. F. Hennessey Co.", recorded with said Registry as Plan No. 264 of 2003 in Plan Book 507, containing four thousand three hundred and forty-seven (4,347) square feet(+/-) of land.

PARCEL IV (150 Fisher Avenue):

Tract I:

Lot B on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 32,625 square feet, according to said Plan.

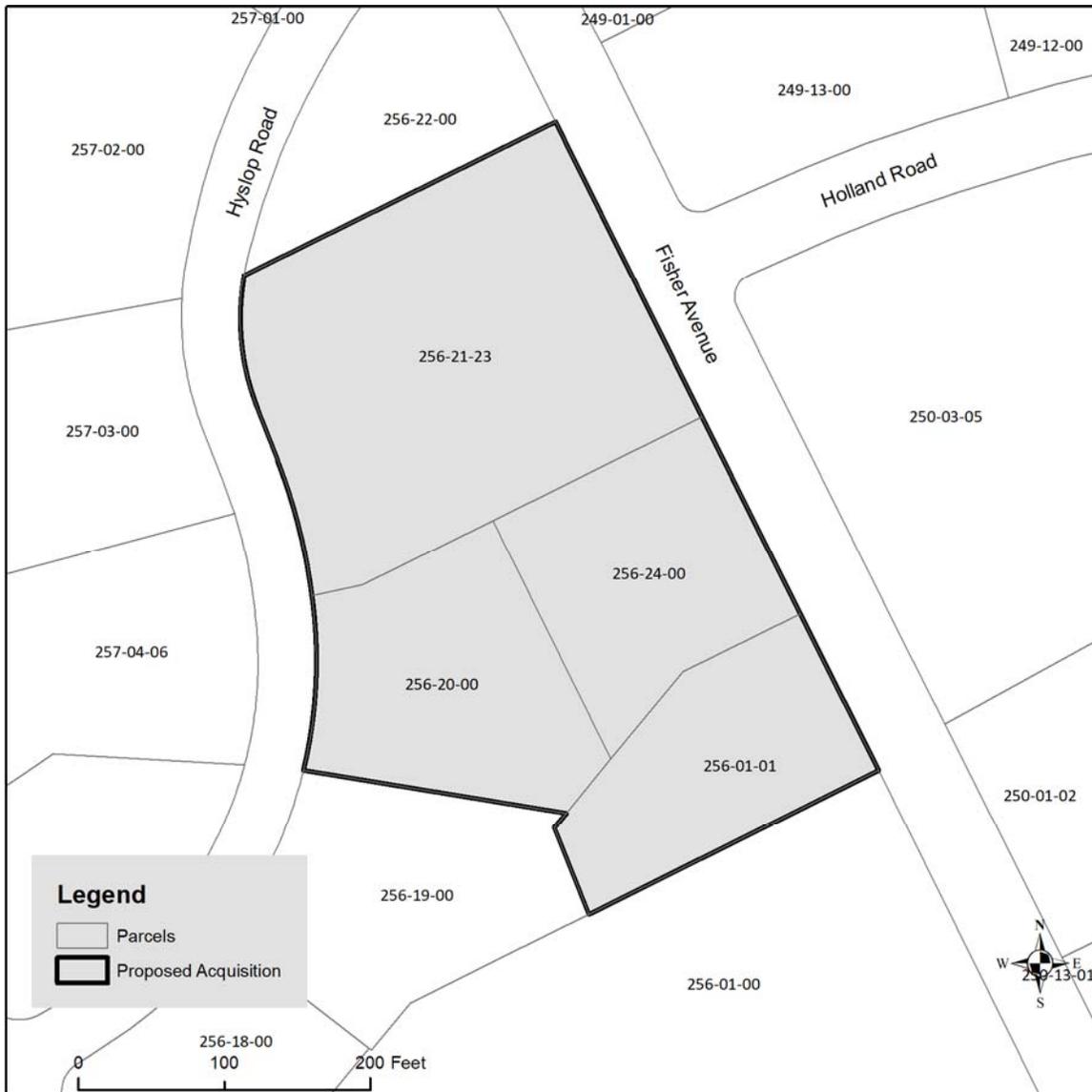
Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.

Tract II:

Lot A on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 28,510 feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.



PETITIONER’S ARTICLE DESCRIPTION

Summary

This article will enable the Town to acquire the former West Campus of Newbury College. The Town has been presented with an opportunity to acquire badly needed land with buildings at a discounted price for current and future municipal use. A debt exclusion question is being placed on the May 5 ballot to provide a funding source. While this potential acquisition is a component of the Welltower senior living proposal, its passage is not essential to the viability of the senior living project. If the package of

warrant articles which enable the senior living proposal is approved and the Town does not acquire the former West Campus, the Town will share in the proceeds of the sale to another party above the Town agreed upon price of \$14.8 million. If the senior living package is not approved by Town Meeting, the offer to purchase (or share in the proceeds of a sale to another party) is rescinded and this article is moot.

A number of short term, low impact uses for the property have been identified and are described below. No long-term use for the parcels has been determined at this point; such a use would be the result of a multi-year study involving input from Town staff, boards and committees as well as the neighborhood and the community at large. Pursuant to MGL c. 40, §14, any acquisition of land by a town's Select Board must be authorized by a two-thirds vote of Town Meeting. This Article authorizes the Select Board to acquire the parcels with the addresses 110 Fisher Avenue, 124 Fisher Avenue, 150 Fisher Avenue, and 146 Hyslop Road and appropriate the funds necessary for the acquisition of the property and attendant expenses.

The former West Campus of Newbury College

When Newbury College announced its decision to close, the Town recognized the opportunity this presented for acquisition of badly needed property for potential municipal and school uses. Before, during and after the almost unanimous April 2019 Town Meeting Resolution to pursue acquisition of the campus, the Town participated in the bidding process established by the college and under the purview of the State's Attorney General. The Town was not the winning bidder—in large measure due to the difficult requirements imposed by Newbury on prospective bidders. Upon designation as the selected bidder, Welltower Inc. offered the Town the opportunity to purchase the portion of the campus that is on the west side of Fisher Avenue. A more detailed description of the bidding process and the other components of the Welltower deal are contained in the explanation of Article X1, the Fisher Hill Special Overlay District.

The property that comprises the former West Campus of Newbury college consists of four parcels (110, 124 and 150 Fisher Avenue and 146 Hyslop Road) totaling 3.18 acres.



Figure 1: Site Plan. Proposed section for acquisition is on the west (left) side of Fisher Ave.

The site contains the former Academic Center and West Hall (each with dedicated parking) plus two parking areas for approximately 156 vehicles (according to the Newbury College Master Plan prepared by Stantec in 2014). The purchase price, established following a robust negotiation process between Welltower and representatives of the Town, has been set at \$14.8 million. A debt exclusion override referendum is being placed on the May 5, 2020 Town election ballot by the Select Board in order to provide the bonding capacity to purchase the property if authorized by Town Meeting. If the Town purchases the property, it will be “as is.”

The Academic Center, consisting of the main building constructed in 1957 and a library added in 1997, contains 30,940 square feet of program space distributed amongst three levels plus a partial basement consisting of classrooms/lab spaces, offices and a café as well as the library. It is the building on the campus best suited in its as-is condition for Town uses.



Figure 2: Academic Center view from Fisher Ave.



Figure 3: Rear of Academic Center showing 1997 Library addition

West Hall is a three-story building constructed as a private residence in 1920 consisting of 9,841 square feet. It had been used by Newbury College for classrooms, offices and a mail room. The building is in general disrepair, but in overall sound condition. It has no accessible features and internal circulation is awkward.



Figure 3: Rear View of West Hall

Summary of the Town’s due diligence on site conditions:

As part of the bidding process in spring 2019 and then subsequently as part of its decision-making process relative to purchasing the former West Campus, the Town undertook a significant amount of due diligence within a compressed time frame. In addition to commissioning a title search, the Town focused on the condition of the two buildings on the former West Campus as well as the status of public infrastructure serving the property. A Capital Needs Assessment was prepared for the Town by Commercial Construction Consulting, Inc. (CCC), a professional engineering firm experienced in the design, construction and operation of institutional buildings and office buildings. CCC evaluated the condition of all buildings on the entire campus and provided a ten-year capital forecast for the property. The buildings were also evaluated by the Public Buildings Division of the Building Department, which incorporated inspections by the Town’s sub-contractors, including but not limited to the condition and life-expectancy of life safety systems, HVAC, roofs, chimneys, windows, facades and availability and capacity of utilities. These studies concluded that neither the Academic Building nor West Hall **appear to have any** structural deficiencies.

How will the Town use the property?

The Town has not made any determinations as to the long term use(s) of the property. In the short term, the Town will use the properties essentially as-is while engaging in an inclusive process over the next three to five years relative to the long term use of the site. A vision of how the process would be conducted is described below.

Many municipal needs have been identified in the Town's Strategic Asset Plan completed and adopted by the Select Board in 2018. The Strategic Asset Plan was designed to serve as a foundation for future planning relating to facilities and services to be provided to Brookline residents and the commercial sector. The study is available here:

<https://www.brooklinema.gov/DocumentCenter/View/14147/Strategic-Asset-Plan-PDF>

Short-Term Uses

The Town has identified a number of short-term uses, most notably office and workshop space for the Building Department, which will be able to relocate from **substandard**, ill-suited and inefficient space at Larz Anderson Park. This will bring approximately 20 employees to the site. In addition to providing a centralized location for Building support services, Building Department personnel are the ideal tenants to provide a municipal presence within the building to oversee the building and activity. Further, since no interim uses are proposed for West Hall, Building Department personnel will be in a position to monitor the vacant building. The Academic Building will be available to meet other municipal space needs including overflow use for meetings, training and other programs. Given the site's location immediately adjacent to Reservoir Park, it could accommodate overflow parking. The Town Administrator is continuing to explore other possibilities for short-term uses that can be accommodated on the property with minimal impacts on the abutting residential neighborhood.

Long-Term Uses

No permanent use of the west campus has been determined. Given that the identification of an appropriate long-term use or uses for the west side warrants a significant and inclusive planning process, the Select Board will initiate a comprehensive planning process that is anticipated to take several years. That process will begin with the creation of a Land Use Committee consisting of Town officials, neighbors and residents with support from professional staff and outside experts, as necessary. The extended process will seek to capture input from all sectors of our community and include public hearings, social media engagement, and planning workshops and/or charrettes. Based on public input and professional analysis, the Land Use Committee will submit its recommendation to the Select Board, which will ultimately make its decision and seek Town Meeting approval.

The following is a partial list of potential uses:

- Affordable Housing
- Athletic Fields or Expanded Park Use
- Building Division Workshop and Offices
- Municipal/School Office Spaces
- Municipal/School Training Center
- Recreational Facilities (Pool, Rink, Gym)
- Satellite Senior Center

- School Classrooms or Educational Spaces

Some preliminary studies have already been conducted as part of the Town's exploration as to the feasibility and desirability of purchasing the former West Campus. The Town commissioned two architectural firms to perform very preliminary "test fits" of potential municipal and school uses of the Academic Building as well as the entire west side property to determine if and the extent to which they could accommodate various municipal and school uses.

ICON Architecture was commissioned to test fit a number of municipal uses, most of which were identified in the Strategic Asset Plan, including:

1. Building Department operation and equipment storage needs
2. Recreation Department's Early Childhood Education and After School programs
3. Police Department training and storage needs
4. Sports and recreation fields
5. Multi-story indoor recreation facility
6. An indoor skating and hockey facility
7. An indoor /outdoor swimming facility

Several permutations involving shared deployment of the property by different uses were also identified and examined.

The study is available here:

<https://www.brooklinema.gov/DocumentCenter/View/20621/Other-Municipal-Uses---NEWBURY-TESTFITs---103119?bidId=>)

HMFH Architects studied potential elementary school uses at the following sizes:

2+++ Sections (Baldwin Program, 109,005 gross square feet)

3+++ Sections (136,682 gross square feet)

4+++ Sections (Driscoll Program, 158,432 GSF)

Note: +++ Indicates inclusion of:

* 3 Pre-K classroom

** 3 RISE Special Education classrooms

*** 3 English as a second language classrooms

The study is available here:

<https://www.brooklinema.gov/DocumentCenter/View/20622/School---Newbury-Test-Fit-Presentation---103119?bidId=>

The studies prepared by architects (and based, in part, on the due diligence previously undertaken) represented preliminary and essentially conceptual analyses. The planning process to be established by the Select Board will be designed to explore additional uses

identified by the community as well to generate more detailed plans upon which to make decisions.

Financing the Acquisition

The Select Board will be placing a debt exclusion question on the May 5 ballot for \$14.9 million dollars to finance the \$14.8 million purchase price plus provide \$100,000 for minor improvements and repairs to the site. The most significant repair which has been identified is a required upgrade to the fire alarm panel which is estimated to cost about \$15,000.

Debt Service for a \$14.9 million borrowing for 25 years at 4% is about \$953,778 per year. The Town’s most recent long term borrowings have been **below** 3%. A \$14.9 million borrowing for 25 years at 3% is about \$855,675 per year.

Tax Impact of Debt Exclusion at 3%

TAX IMPACT OF DEBT EXCLUSION (LEVEL DEBT SERVICE)		
Project(s) Cost	\$14,900,000	
Town Share	\$14,900,000	
Term	25	
Interest Rate	3.00%	
Annual Debt Service	\$855,675	
Tax Impact on Median Single-Family Home	\$49	0.4%
Tax Impact on Median Condo	\$15	0.4%
Tax Impact on Median Commercial Prop	\$112	0.4%

Tax Impact of Debt Exclusion at 4%

TAX IMPACT OF DEBT EXCLUSION (LEVEL DEBT SERVICE)		
Project(s) Cost	\$14,900,000	
Town Share	\$14,900,000	
Term	25	
Interest Rate	4.00%	
Annual Debt Service	\$953,778	
Tax Impact on Median Single-Family Home	\$54	0.4%
Tax Impact on Median Condo	\$17	0.4%
Tax Impact on Median Commercial Prop	\$124	0.4%

The Public Buildings department estimates that the cost to the Town to own and maintain the property on an annual basis is approximately \$73,000.

Note that the property is currently generating tax revenue of about \$140,000 per year which will be lost if the Town purchases the property.

Town Proceeds Sharing in the event Fisher Hill Overlay District is approved and the Town does not Purchase the Former West Campus

If the package of warrant articles which enable the senior living proposal is approved and the Town does not acquire the former West Campus, the Town will share in the proceeds of the sale to another party above the Town agreed upon price of \$14.8 million. The proceeds will be shared in accordance with the following chart.

Sale of West Parcel - Profit Sharing Framework					
Assume Sale Price of \$18,550,000*** (Colliers appraised value) and assume 2% cost of sale					
Assume Waterfall of Proceeds Sharing Above \$14,800,000 <i>net proceeds</i>					
Total Sale Price	Incremental Sale Proceeds	Incremental Welltower Proceeds		Incremental Town Proceeds	
		\$	%	\$	%
\$ 14,800,000	\$ 14,800,000	\$ 14,800,000	100%	\$ -	0%
\$ 15,800,000	\$ 1,000,000	\$ 371,000 *	0%	\$ 629,000	100%**
\$ 16,300,000	\$ 500,000	\$ 25,000	5%	\$ 475,000	95%
\$ 16,800,000	\$ 500,000	\$ 50,000	10%	\$ 450,000	90%
\$ 17,300,000	\$ 500,000	\$ 75,000	15%	\$ 425,000	85%
\$ 17,800,000	\$ 500,000	\$ 250,000	50%	\$ 250,000	50%
\$ 18,550,000	\$ 750,000	\$ 562,500	75%	\$ 187,500	25%
TOTAL:	\$ 18,550,000	\$ 16,133,500		\$ 2,416,500	

*NOTE 1: For the purpose of calculating cost of sale for this Exhibit, we assume a total sale price of \$18.55M is achieved. This figure is used for illustrative purposes only. Costs of sale will include all out of pocket costs incurred by Welltower in connection with the sale including, without limitation, brokerage commissions, all state and local transfer taxes, and attorneys' and consultants' fees and expenses that are customarily incurred for similar commercial transactions.

**NOTE 2: We assume the Town receives 100% of the initial \$1M in sale proceeds AFTER Welltower's cost of sale

***NOTE 3: Should Welltower achieve a sale price above \$18.55M the Town would propose to share in 10% of additional net proceeds

SCHOOL COMMITTEE RECOMMENDATION

On May 27, 2020, the School Committee VOTED UNANIMOUSLY, by a vote of 6 in favor (Ms. Schreiner-Oldham, Ms. Federspiel, Ms. Charlupski, Ms. Monopoli, Mr. Pearlman, and Ms. Scotto), 0 opposed, and 0 abstentions, to support the acquisition of the west parcel of the former Newbury College campus for a variety of municipal purposes, including possible school use.

SELECT BOARD'S RECOMMENDATION

Please see the Board's report for this article presented under Article 14. A unanimous Select Board voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

For Warrant Article 15, the Advisory Committee by a 23-3-2 vote recommends FAVORABLE ACTION on the following motion, which provides an appropriation of \$14.9 million to acquire the Newbury College West Campus contingent on the approval by Town voters of a debt exclusion vote:

(See below for the full text of the motions)

Article 15

- WESTERLY on lot marked "27,329 S.F." on said plan, one hundred eighty and 80/100 (180.80) feet;
- SOUTHEASTERLY on land now or formerly of the Sisters of the Holy Cross Inc., seventy seven and 15/100 (77.15) feet; and
- SOUTHERLY on the same, eighty-nine and 27/100 (89.27) feet.

Containing twenty-five thousand and eighty-nine (25,089) square feet of land, more or less, according to said plan.

PARCEL II - Tract II (146 Hyslop Road):

A certain parcel of land situated in Brookline, Massachusetts, shown on a plan entitled "Plan of Land, Hyslop Road, Brookline, Norfolk County, Mass. Property Line Plan" by Yunits Engineering Co., Inc., Consulting Engineers, dated August 31, 1982 and recorded with said Registry as Plan No. 1057 of 1983, in Plan Book 307, bounded and described as follows:

- WESTERLY on Hyslop Road by two curved lines, one measuring eighty-one and 6/100 (81.06) feet, the other measuring thirty-eight and 68/100 (38.68) feet;
- NORTHERLY by two lines, one measuring thirty-five and 38/100 (35.38) feet, the other measuring one hundred (100) feet;
- EASTERLY by a line, one hundred and eighty and 80/100 (180.80) feet;
- SOUTHEASTERLY by a line, forty-eight and 30/100 (48.30) feet; and
- SOUTHWESTERLY on land now or formerly of Judith Sprague, one hundred eighty- two and 53/100 (182.53) feet.

Containing twenty-seven thousand three hundred twenty-nine (27,329) square feet of land, more or less, according to said plan.

PARCEL III (110 Fisher Avenue):

BEGINNING at the northeasterly corner of the granted premises at a stone bound set in the southwesterly sideline of Fisher Avenue as shown on a plan hereinafter mentioned;

SOUTH 26° 17' 50" EAST by Fisher Avenue 120.00 feet to a point at remaining land of the Commonwealth of Massachusetts; thence

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SOUTH 63° 42' 10" WEST by said land of the Commonwealth of Massachusetts 357.80 feet to a point at land now or formerly of Frank R. and Etta P. Pratt; thence

NORTH 39° 28' 50" EAST by said land of Pratt 168.59 feet to a stone bound; thence

NORTH 39° 29' 50" EAST 86.35 feet to a stone bound; thence

NORTH 39° 48' 50" EAST 39.39 feet to a stone bound; thence

NORTH 64° 02' 30" EAST 89.29 feet to the bound first mentioned and the point of beginning.

Containing twenty-six thousand nine-hundred fifty-one (26,951) square feet and being shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Water Division, Land in Brookline to be conveyed to Sisters of the Holy Cross of Massachusetts, The Archbishop Cushing College," dated September 16, 1958, Harold J. Toole, Director of the Water Division and Chief Water Supply Engineer, recorded with said Registry in Book 3700, Page 525.

Excluding so much of the premises that was conveyed by deed from Newbury College, Inc. to Syroos Sanicoff and Ronni M. Sanicoff dated April 28, 2003 and recorded in Book 18778, Page 143, which included the following parcel of land:

A certain parcel of land, now known as and numbered 154 Hyslop Road in said Brookline, shown as Lot A on a plan dated October 10, 2002 and entitled "Subdivision Plan of Land in Brookline, Massachusetts, Norfolk County, I. F. Hennessey Co.", recorded with said Registry as Plan No. 264 of 2003 in Plan Book 507, containing four thousand three hundred and forty-seven (4,347) square feet(+/-) of land.

PARCEL IV (150 Fisher Avenue):

Tract I:

Lot B on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 32,625 square feet, according to said Plan.

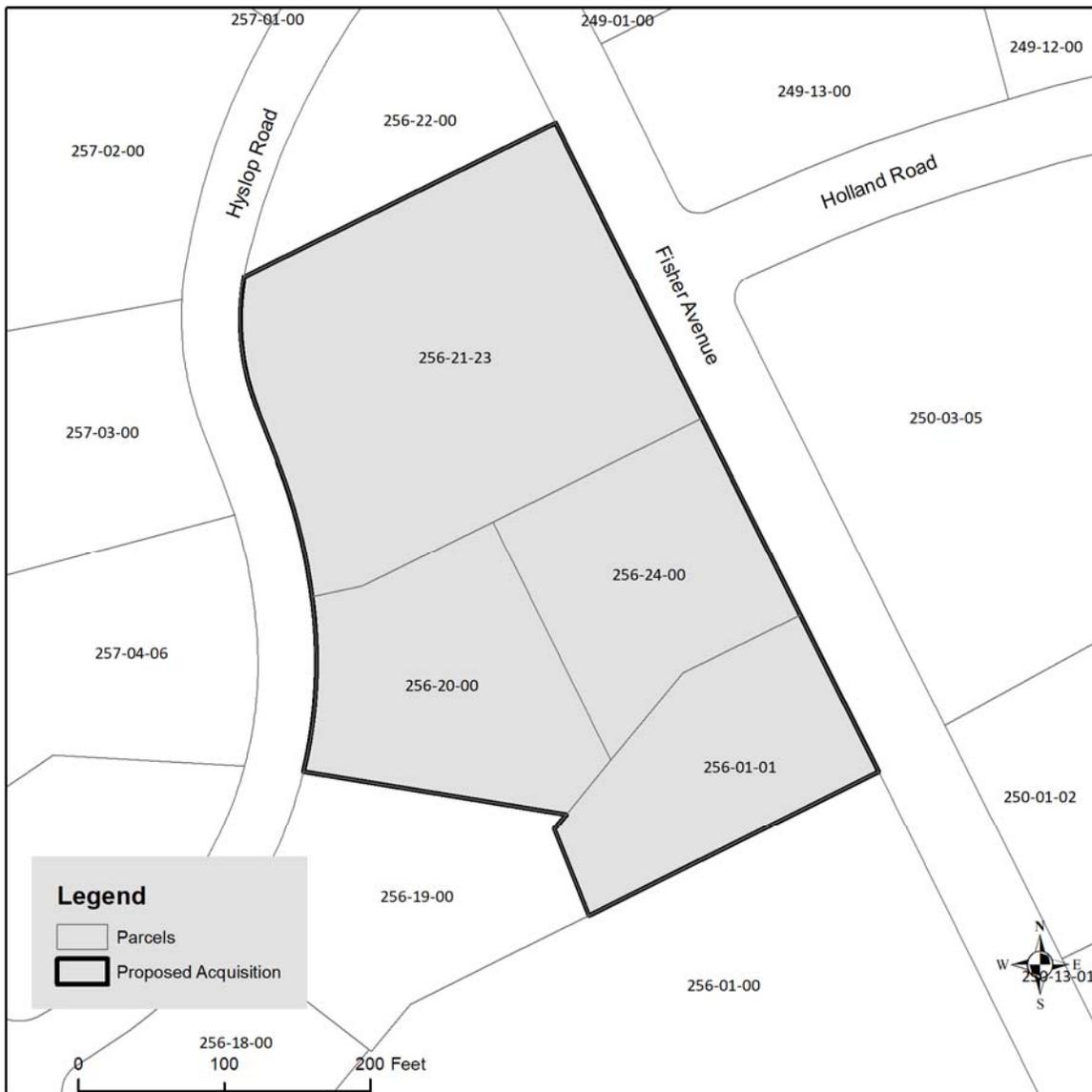
Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.

Tract II:

Lot A on plan entitled "Plan of Land in Brookline, Mass." by Henry F. Bryant & Son, Inc., dated August 26, 1954, and recorded with Norfolk County Registry of Deeds in Book 3295, Page 593.

Containing 28,510 feet, according to said Plan.

Being and intending to convey the same premises conveyed to the Grantor by Deed dated August 27, 1984 and recorded with said Registry in Book 6483, Page 351.



ARTICLE 16

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

At the November 2019 Special Town Meeting, a warrant article to authorize the Select Board to dispose of the three condominiums on Oak Street that the Town previously acquired to accommodate the proposed Baldwin School project failed to receive the required two-thirds majority. This article was submitted again by petition to appear on the Annual Town Meeting Warrant. Following a public hearing, the Select Board voted 3-2 to recommend favorable action on this warrant article. The issues discussed at the November town meeting have not changed substantively, and the Board agreed that providing the authorization and acting on that authorization are two separate actions. Should Town Meeting empower the Board to sell the properties the Board will consider such action at a later date.

The Select Board voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ROLL CALL VOTE:

<u>Aye:</u>	<u>No:</u>
Greene	Heller
Hamilton	Fernandez
VanScoyoc	

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Summary

Warrant Article 16 authorizes, but does not require the Select Board, to sell the parcels of land located at 15-19 Oak Street, Brookline, Massachusetts. The initial abbreviated warrant proposed for the June Town Meeting did not include Warrant Article 16; however, the expectation that the article would be moved from the floor caused the Advisory Committee to reconsider so that Town Meeting could benefit from the input of a public hearing and more detailed analysis.

By a vote of 23 in favor, none opposed, and 3 abstentions, the Advisory Committee recommends favorable action on WA 16.

Background

Article 16 would authorize the Select Board to sell three residential condominiums at 15-19 Oak Street that were purchased in anticipation of a successful debt exclusion vote for the previously proposed Baldwin School project. The properties were acquired after Town

Meeting authorized their purchase in December of 2018 and in advance of the debt exclusion vote. The transaction was completed in early 2019 and the cost of debt service for the acquisition was incorporated into the debt exclusion referendum which was rejected by Brookline voters at the Annual Town Election on May 7, 2019. The acquisition of the properties was achieved via the issuance of Bond Anticipation Notes (BANs). With the failure of the debt exclusion referendum and no plans to pursue the Baldwin School further, the original rationale for their acquisition no longer exists.

A proposal to sell the properties was brought forth as Article 5 in the November 2019 Special Town Meeting but failed by three votes to gain the two-thirds majority required. Although the School Committee once had proposed using the Oak Street condominiums as office space beginning in the fall of 2020 as part of their overall space planning, it is not actively considering this idea now due to the cost of renovations and the complexities re-zoning the property for office use would entail. Consequently, there is no proposed use for the properties at this time.

The Brookline Fiscal Advisory Committee's (BFAC) final report released in February, 2020 identified concerns about the rising level of debt service the Town has assumed since 2015 as a result of recently approved debt exclusions for Ridley School, Brookline High School, and Driscoll School. The upcoming Town Meeting will be asked to authorize funds for the purchase of land at the former Newbury College site, pending approval of a \$14.9 million debt exclusion to be put before the voters by November, and yet another debt exclusion will be required to fund the renovation and expansion of Pierce School. The petitioner argues that sale of the Oak Street properties would free up hundreds of thousands of dollars in debt service and principle repayments which could be used to offset the cost of potential new projects.

With the onset of Covid-19 and the decision to hold a virtual Town Meeting, the Moderator, with the concurrence of the Select Board and Advisory Committee, has suggested limiting the Town Meeting agenda. The proposed list of articles to be deferred until the November Special Town Meeting, which requires Town Meeting approval, initially included Warrant Article 16. However, given the exigent budget circumstances the Town is confronting, it is anticipated that a motion will be made from the floor to consider the sale of the Oak Street properties now. Consequently, the Advisory Committee scheduled a public hearing and is providing its analysis as context for Town Meeting's debate.

Discussion

The petitioner argues that retaining the Oak Street properties makes no sense because they were purchased for a specific purpose that no longer exists. Beginning next year, the Town will be required to begin amortizing the principle payments in addition to interest. Outlays are estimated to be several hundred thousand dollars per year. The bonds would not be considered tax exempt if used to finance income-producing properties making them less attractive. If the Select Board decides to act on an authorization to sell, it would take three to four months to advertise the procurement, generate a purchase and sale agreement, and ultimately close on the property.

Although the properties generated some rental income initially, all three are expected to be vacant shortly, and the Town has been hard pressed to keep up with routine maintenance which cost approximately \$30,000 through 2019. Additional work is needed to bring the properties back to rentable condition. The carrying costs of interest and principle would further strain the CIP which is already facing funding challenges due to the impact of Covid-19 on Town revenues. At the same time, there are currently very few houses for sale in Brookline, so that we are in a sellers' market. If sold, the properties would be considered new development adding approximately \$45,000 in tax revenue.

Several members of the public spoke in favor of retaining the properties. In the past, we have regretted selling properties that, if kept, would have proved useful in later years. The units could be converted to office space for the school department or converted to affordable housing, or razed for additional green space. There are currently no town houses in our affordable housing stock and these units would be ideal for that purpose. It might also make sense to look into a long-term lease instead of an outright sale.

Other members of the public disagreed. WA 16 would authorize but not compel the Select Board to sell. All other options can be researched under that authorization, including a transfer to the Brookline Housing Authority for a nominal fee. Having the Town continue to subsidize the units as affordable housing is a very expensive way to increase the affordable housing supply. The Town should explore all avenues to reduce its budget deficit. Neither this property nor the Baldwin school are adequate for building a school and that is the kind of land the Town needs. Although the school committee opposed the sale in November, there is a new school committee now and they might vote in favor of a sale.

The Advisory Committee agreed with the proponents of the sale. A thoughtful plan for use of the property no longer exists and without utility, the property serves no strategic purpose. The purchase was never intended as an investment for the Town, and if the property were just becoming available now, we would not buy it.

Recommendation

By a vote of 23-0-3. the Advisory Committee recommends favorable action on Warrant Article 16.

VOTED

To authorize the Select Board to sell the parcels of land located at 15-19 Oak Street, Brookline, Massachusetts, consisting of approximately 8,209 square feet, including all buildings and structures thereon and all privileges and appurtenances thereto belonging and all interests held pursuant to M.G.L. c. 183A, as well as all trees and shrubs thereon, on such terms and conditions as the Select Board determines to be in the Town's best interest, or take any other action relative thereto.

ARTICLE 18

EIGHTEENTH ARTICLE

Submitted by: Planning Department

AUTHORIZATION TO ACCEPT MASSACHUSETTS GENERAL LAWS, CHAPTER 44, SECTION 55C - AFFORDABLE HOUSING TRUST FUND

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 44, Section 55C, and establish a trust known as the Brookline Affordable Housing Trust Fund, the purpose of which shall be to provide for the creation and preservation of affordable housing in the Town of Brookline for the benefit of low and moderate income households and for the funding of community housing.
Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Prior to 2005, towns seeking to create affordable housing trusts needed home rule approval. In 1986, Town Meeting authorized the Select Board to file a home rule petition seeking authorization to establish a "Housing Trust Fund and an Open Space Fund." *November 1986 Special Town Meeting, Article 21.* The petition, embodied in House Bill 6578, was never passed. In 1987, Town Meeting voted to adopt Article XI-C of the Town's General By-laws, with the intention of creating the Brookline Housing Advisory Board and the Brookline Housing Trust. *December 1987 Special Town Meeting, Article 12.* The By-law was approved by the Attorney General. Article XI-C, now Section 3.13.3 of the Town's General By-laws, states that the Town's Housing Trust may accept "gifts, grants, aid, reimbursements, payments and appropriations for the purposes set forth in Section 3.13.1..." This language mirrors, in part, the language in M.G.L. c. 44 s. 53A that authorizes town officers or departments to accept certain grants or gifts of funds with the approval of the Select Board.

In 2005, the state legislature passed M.G.L. c. 44, s. 55C, the Municipal Affordable Housing Trust Fund law, which simplified the process of establishing local housing trust funds by requiring only a simple majority vote of Town Meeting to accept the statute. In line with this process and in order to ensure the broadest ability of the Town to accept and use trust funds for their intended purpose, this Article seeks such acceptance.

HOUSING ADVISORY BOARD RECOMMENDATION

The Housing Advisory Board on May 27, 2020 voted unanimously to recommend favorable Action on Warrant Articles 18 and 19, as follows:

"The Housing Advisory Board votes to recommend Favorable Action on Warrant Article 18 authorization to accept M.G.L. Chapter 44, Section 55c, Municipal Affordable Housing Trust Fund, and also to recommend Favorable Action on Warrant Article 19 to ask the Town to amend Article 3.13 of the Town's General Bylaws in order to for the Town and the Housing Advisory Board as Trustees to conform with the provisions of M.G.L. Chapter 44, Section 55c."

SELECT BOARD'S RECOMMENDATION

Warrant Articles 18 & 19 will align Brookline's Affordable Housing Trust with. M.G.L. Chapter 44, Section. 55C, the Municipal Affordable Housing Trust Fund law enacted by the state legislature in 2005. This state statute standardizes how Housing Trusts are adopted by municipalities.

Brookline's Housing Trust was created by Town Meeting in 1986 and has operated successfully since that time without having adopted M.G.L. c.44, s.55C. Warrant Articles 18 and 19 will update the Town's Affordable Housing Trust, bringing it into alignment with over 100 Massachusetts cities and towns that have created Affordable Housing Trusts since 2005.

Articles 18 and 19 will allow the Town's Housing Trust to accept all sources of possible future funding including proceeds from the proposed passage of the, Community Preservation Act (CPA).

Warrant Article 18 adopts the provisions of the current law, to provide for the creation and preservation of affordable housing to benefit low and moderate-income households earning up to 100% of Area Median Income (AMI).

Warrant Article 19 amends Article 3.13 "Housing Advisory Board" of the Town's General By-laws to align with the uniform provisions of the state statute. Specific changes to Article 3.13 include:

--Requiring that the incomes of households served by Housing Trust funds not exceeding 100 percent of Area Median Income (as opposed to 110% under the current By-law);

--Adding a Select Board Member to the Housing Advisory Board

-- Reducing HAB terms of HAB members from three to two years.

The Select Board unanimously voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY

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

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

The Advisory Committee recommends Favorable Action on Articles 18 and 19.

BACKGROUND

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

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

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

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

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

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

The Massachusetts Housing Trust statute enumerates 16 possible duties, but says that municipalities through by-law or ordinance may add to or delete these duties. Brookline's

by-law lists “preservation of existing housing, expansion of low (80% AMI), moderate (100% AMI) and upper-moderate income housing (120% AMI), and conversion of existing housing or non- housing structures to low, moderate and upper-moderate income housing”. This income range exceeds that which is enumerated in the state statute because it includes “upper-moderate income housing”, otherwise known as “workforce” housing. While Brookline’s inclusion of an upper-moderate income category will continue to be allowable for purposes other than Trust Fund expenditures, the statute does not allow any Trust Fund spending for upper-moderate housing.

The Section 13.13.3 amended language eliminates use of Trust Fund funds for upper-moderate income housing, but under 3.13.4 would still allow the Board to promote upper-moderate affordable housing in other ways. There have been very few, projects in the past containing upper-moderate income affordable units funded with Affordable Housing Trust Funds. The HAB Chair does not view this restriction as imposing a significant impediment to carrying out the HAB’s mission.

Over the years, the Brookline Affordable Housing Trust Fund has managed approximately \$14 million, expended \$11 million, and supported the development of over 350 units of affordable housing, which represents a substantial contribution to Brookline’s affordable housing inventory.

As of 2018, Brookline Housing Authority operated 920 units, and there were 891 privately owned units. According to the 2016 Brookline Housing Production Plan, 104 of Brookline’s affordable units were produced under the inclusionary zoning by-law.

DISCUSSION

The Advisory Committee agreed that the goal of these two Warrant Articles, which are mostly housekeeping actions, is to align with the requirements of the State statute. The discussion included the following included the following items:

Some members asked about the position the Housing Advisory Board on these articles. The Chair of the HAB expressed support for these articles and that the Board was going to formally vote on the Warrant Articles.

The Advisory Committee also discussed the consequence of no action on the Warrant Article. It was noted that the existing Trust Fund has been maintained as a separate fund since its inception. While the Town could continue to receive funds dedicated to affordable housing under the so-called “gifts and grants” law, Town Counsel recommends that Town Meeting act favorably so the fund is permanently established under the provisions of M.G.L. c. 44, s. 55C. Community Preservation Act will be coming back in a warrant proposal for the next Town Meeting. If Warrant Articles 18 and 19 don’t pass, the CPA would not allow what it is intended to do which is to channel money through the Housing Trust.

The composition of the new HAB was also discussed. Some members why there eight members on the board and not an odd number. It was clarified that the main reason is that

the Town bylaw refers to a very specific range of skills to be found on the HAB and seats coming from specific sources. The Board will have eight members, if one is to be a Select Board member. The Select Board member will be a voting trustee. The Brookline by-law requirement that projects are submitted for Select Board for approval will remain.

Additionally, it was discussed that these changes will apply to all affordable housing units, both rental and owner occupied.

Finally, the linkage between Warrant Articles 18 and 19 with Warrant Articles 9-15 (Welltower/Newbury Redevelopment Project) was discussed. If the affordable housing component of the project (Warrant Article 13) fails, it would provide \$6.5 million to the Trust Fund. This would be the largest sum that the Trust Fund would have ever receive in a lump sum, so it is advisable to have everything in place if that option is selected.

Recommendation

By a vote of 27 in favor, 1 opposed and no abstentions, the Advisory Committee recommends FAVORABLE action on an amended and revised Warrant Article 18, as follows:

VOTED:

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

XXX

ARTICLE 19

NINETEENTH ARTICLE

Submitted by: Planning Department

To see if the Town will vote to amend Article 3.13 of the Town's General By-laws ("Housing Advisory Board") as follows (deletions appearing in ~~striketrough~~, additions appearing in **bold underline**):

ARTICLE 3.13 HOUSING ADVISORY BOARD

SECTION 3.13.1 PURPOSE

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

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

SECTION 3.13.2 MEMBERSHIP

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

Select Board should ensure that all of these areas of expertise are represented on the Housing Advisory Board.

SECTION 3.13.3 HOUSING TRUST

~~There is hereby created in the Town of Brookline a Housing Trust, whose~~ **The funds of the Town of Brookline Housing Trust, established pursuant to M.G.L. c. 44, s. 55C,** are to be managed and expended under the supervision of the Housing Advisory Board. **The purpose of the trust is to provide for the creation and preservation of affordable housing in the Town of Brookline for the benefit of low and moderate income households and for the funding of community housing.** The Housing Trust may accept gifts, grants, aid, reimbursements, payments and appropriations for the purposes set forth in Section 3.13.1., and the Housing Advisory Board may expend the funds in the Housing Trust, with the approval of the Select Board, for such purposes. Without limiting the foregoing, and with the approval of the Select Board, the Board may employ consultants, full or part-time staff and contract for administrative and support services. All funds received for the Housing Trust shall be deposited with the Treasurer and held in a separate account known as the Housing Trust account. The Brookline Housing Trust fund shall be the sole designee and recipient of any and all developer cash contributions made to the Town for affordable housing purposes under Section 4.40 Affordable Housing Requirements of the Zoning By-law. No expenditures shall be made from the Housing Trust Fund without the prior approval of the Select Board.

SECTION 3.13.4 DUTIES

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

SECTION 3.13.5 POWERS

The Board may use the Housing Trust, or any additional funds that may be available to provide rent subsidies, mortgage interest payments, mortgage principal payments, condominium principal or interest payments, development subsidies and conversion

subsidies. The Board may also use such funding for housing studies and reports, for the employment of experts and for such purposes it deems necessary or desirable to accomplish the purposes set forth in Section 3.13.1.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Article 19, a companion to Article 18, authorizes Brookline to accept the terms of Massachusetts General Laws Chapter 44, Section 55C, thereby establishing a trust known as the Brookline Affordable Housing Trust Fund. Article 19 enables Brookline to implement its acceptance of MGL Chapter 44, Section 55C by amending the applicable Section 3.13 of the Town's Bylaws such that Brookline's local Bylaw will align properly with the uniform provisions and requirements of the state statute applicable to municipal housing trust funds.

Specific amendments contained in this Article that will bring Section 3.13 into alignment with MGL Chapter 44, Section 55C include:

1. Reducing the terms of Housing Advisory Board members from their current three-year staggered terms to the maximum two-year terms prescribed in Section 55C. Terms will continue to be staggered.
2. Increasing the number of Housing Advisory Board members from seven to eight in order to meet Section 55C's requirement that Trust Fund trustees include a Select Board member. Housing Advisory Board members serve, and will continue to serve, as trustees of the Brookline Affordable Housing Trust Fund.
3. Omitting reference to "upper moderate" in order to comply with Section 55C that Affordable Housing Trust Funds may be used in support only of "low and moderate income" persons, households, families and housing, which includes household incomes not exceeding 100% of the Boston Area Median Income (AMI).

None of the above amendments will impede the ability of the Housing Advisory Board to fulfill the above-stated purposes for which it was created in 1987 under Section 3.13, including as Trustees of the Affordable Housing Trust.

In adding a Select Board member to the Housing Advisory Board, there was the option either of replacing one of the existing HAB member seats or creating an additional seat. The HAB recommends the creation of an additional seat.

Section 3.13 directs the Select Board to appoint individual HAB members who have *"knowledge or experience in government housing programs, housing or real estate*

finances, affordable housing development, design or urban planning [and] real estate law". Further, three of the seven HAB seats must be filled at all times by a Planning Board member, a Housing Authority Board member, and a low- or moderate-income tenant.

With this combination of appointed and mandated seats and targeted skillsets, HAB members over many years have included the identified range of professional knowledge and experience. Adding a Select Board member to the existing seven-person roster will enable the HAB to retain the robust range of skills and experience needed to advance its mission on behalf of the Town.

Finally, reducing HAB member terms from three to two years will entail no significant administrative burden nor will it impede the HAB's ability to function effectively.

SELECT BOARD'S RECOMMENDATION

Please see the report under Article 18 for the Select Board's explanation.

The Select Board unanimously voted FAVORABLE ACTION on the motion offered by the Advisory Committee under Article 19.

ADVISORY COMMITTEE'S RECOMMENDATION

Please see the report and recommendation for this article submitted under Article 18.

By a vote of 27 in favor, none opposed and 1 abstentions, the Advisory Committee recommends FAVORABLE action on an amended and revised Warrant Article 19, as follows: (deletions, strikethrough; additions, bold)

VOTED:

SECTION 3.13.1 PURPOSE

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

- a. to study and recommend housing policy for the town,
- b. to advise on the coordination of housing policy and programs within the town,
- c. to act as Trustees for funds received as gifts, grants, aid, reimbursements and payments for housing, including renewal, replacement and new construction,
- d. to propose plans and programs for relieving congestion; substandard, decadent or blighted areas; unsanitary or unsafe buildings; and for providing safe and sanitary

- dwellings for families and elderly persons of low or moderate income at rentals which they can afford;
- e. to promote the preservation and creation of housing which is affordable to low, moderate and upper-moderate income persons, households and families, and
 - f. to administer the **Brookline Affordable Housing Trust Fund**, hereinafter established.

SECTION 3.13.2 MEMBERSHIP

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

SECTION 3.13.3 HOUSING TRUST

~~There is hereby created in the Town of Brookline a Housing Trust, whose~~ **The funds of the Town of Brookline Affordable Housing Trust Fund, established pursuant to M.G.L. c. 44, s. 55C, are to be managed and expended under the supervision of the Housing Advisory Board. The purpose of the Trust is to provide for the creation and preservation of affordable housing in the Town of Brookline for the benefit of low- and moderate-income households and for the funding of community housing, as defined in and in accordance with the provisions of M.G.L. c. 44B.** The Housing Trust may accept gifts, grants, aid, reimbursements, payments and appropriations for the purposes set forth in **this** Section 3.13.3, and the Housing Advisory Board may expend the funds in the Housing Trust, with the approval of the Select Board, for such purposes. Without limiting the foregoing, and with the approval of the Select Board, the Board may employ consultants, full or part-time staff and contract for administrative and support services. All funds received for the Housing Trust shall be deposited with the Treasurer and held in a separate account known as the Housing Trust account. The Brookline Housing Trust fund shall be the sole designee and recipient of any and all developer cash contributions made to the Town for affordable housing purposes under Section 4.40.08,

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

SECTION 3.13.4 DUTIES

ARTICLE 25

TWENTY-FIFTH ARTICLE

Submitted by: Sam Glasgow and other residents including members of the Small Business Development Committee

To see if the Town will authorize and empower the Select Board to file a petition with the General Court amending Chapter 268 of the Acts of 2018 to reallocate any remaining unused liquor licenses from the Washington Square Target Commercial Area to either the Brookline Village Target Commercial Area or the Coolidge Corner Target Commercial Area, or to both such areas, and to extend the term of any such reallocated liquor license by two years. Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

In the fall of 2017, Town Meeting authorized the Select Board to petition the state for 35 additional liquor licenses. A year later, the Legislature granted the Town 12 special liquor licenses, which were allotted to four "Target Commercial Areas": Brookline Village (3), Coolidge Corner (5), JFK Crossing (1), and Washington Square (3). These full-liquor licenses were granted with two important stipulations: the licenses will expire on October 11, 2020 (i.e. two years after the authorizing legislation's effective date) and cannot be utilized outside of the Target Commercial Area to which they were allocated.

As of February 28, 2020, two of the three special liquor licenses originally allocated to Washington Square remain unused. Two Washington Square restaurants have expressed interest in obtaining one of these special liquor licenses, however, just ten months shy of the October 2020 deadline, no restaurants have officially begun the process of obtaining a special liquor license. To ensure that these remaining special liquor licenses do not go unused, the Small Business Development Committee proposes that the Town petition the Legislature for approval to redistribute any remaining special liquor licenses originally allocated to Washington Square to Coolidge Corner and/or Brookline Village, where there is greater demand for liquor licenses. All of the special liquor licenses allocated to Brookline Village and Coolidge Corner, Brookline's largest commercial areas, were claimed within a year.

This warrant article proposes that any remaining special liquor licenses in Washington Square be reallocated to Coolidge Corner and/or Brookline Village, and that the deadline for issuing any reallocated liquor licenses be extended by two years.

There are five possible permutations of how the Washington Square liquor licenses could be reallocated:

- In the event that two Washington Square liquor licenses remain:
 - o Scenario 1: Redistribute one license to Brookline Village and one license to Coolidge Corner
 - o Scenario 2: Redistribute two licenses to Coolidge Corner
 - o Scenario 3: Redistribute two licenses to Brookline Village

- In the event that only one Washington Square liquor license remains:
 - o Scenario 4: Redistribute one license to Brookline Village
 - o Scenario 5: Redistribute one license to Coolidge Corner

Through this warrant article, the Select Board would be authorized to file a petition reflecting one of the five possible permutations for redistributing any remaining special liquor licenses with the General Court in the following form, the final version of which is anticipated to be included in the Town Meeting Combined Report:

To see if the Town will authorize and empower the Select Board to file a petition, in substantially the following form, with the General Court:

AN ACT AMENDING CHAPTER 268 OF THE ACTS OF 2018 TO REALLOCATE *[INSERT NUMBER OF REMAINING WASHINGTON SQUARE SPECIAL LIQUOR LICENSES]* REMAINING LIQUOR LICENSES FROM THE WASHINGTON SQUARE TARGET COMMERCIAL AREA TO BROOKLINE VILLAGE TARGET COMMERCIAL AREA AND THE COOLIDGE CORNER TARGET COMMERCIAL AREA

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. (A) Section 1 Paragraph (b)(1) of Chapter 268 of the Acts of 2018 is hereby amended by striking out the word “Three” and inserting in place thereof the following word – “*[INSERT REVISED NUMBER]*”.

(B) Section 1 Paragraph (b)(2) of Chapter 268 of the Acts of 2018 is hereby amended by striking out the word “Five” and inserting in place thereof the following word – “*[INSERT REVISED NUMBER]*”.

(C) Section 1 Paragraph (b)(4) of Chapter 268 of the Acts of 2018 is hereby amended by striking out the word “Three” and inserting in place thereof the following word – “*[INSERT REVISED NUMBER]*”.

(D) Section 1 Paragraph (f) of Chapter 268 of the Acts of 2018 is hereby amended by striking out the number “2” and inserting in place thereof the following number – “4”.

SECTION 2. This act shall take effect upon its passage.

The General Court may make vary the form and substance of the requested legislation within the scope of the general public objectives of this petition. Or act on anything relative thereto.

SELECT BOARD'S RECOMMENDATION

Warrant Article 25 proposes the redistribution of any remaining special liquor licenses originally allocated to Washington Square to Coolidge Corner and/or Brookline Village, Brookline's largest commercial areas, where - pre-Coronavirus - there was the greatest demand for liquor licenses. Through Warrant Article 25, the Select Board would be authorized to file a petition reflecting one of the five possible permutations for redistributing any remaining special liquor licenses.

The Select Board held a public hearing on this Warrant Article on April 28th and voted favorably for the Warrant Article as submitted. The Select Board has not recommended specific language regarding reallocation in time for the Combined Report, but plans on taking up this item again prior to Town Meeting.

Economic Development staff has recommended to the Advisory Committee and the Select Board language that the Select Board redistribute the two remaining Washington Square special liquor licenses according to Scenario 1 in which one special liquor license would be reallocated to Brookline Village and the other to Coolidge Corner. Although there remains a tremendous amount of uncertainty around the impact that the Coronavirus will ultimately have on the vibrancy of Brookline's commercial areas, the Economic Development and Long-Term Planning Division believes that over the next two years (i.e. the amount of time that the special liquor licenses would be extended if redistributed) the greatest demand for liquor licenses will continue to be in Brookline Village and Coolidge Corner.

A unanimous Select Board voted FAVORABLE ACTION on the following motion:

VOTED: That the Town will authorize and empower the Select Board to file a petition, in substantially the following form, with the General Court:

AN ACT AMENDING CHAPTER 268 OF THE ACTS OF 2018 TO REALLOCATE TWO REMAINING LIQUOR LICENSES FROM THE WASHINGTON SQUARE TARGET COMMERCIAL AREA TO BROOKLINE VILLAGE TARGET COMMERCIAL AREA AND THE COOLIDGE CORNER TARGET COMMERCIAL AREA

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. (A) Section 1 Paragraph (b)(1) of Chapter 268 of the Acts of 2018 is hereby amended by striking out the word “Three” and inserting in place thereof the following word – “*Four*”.

(B) Section 1 Paragraph (b)(2) of Chapter 268 of the Acts of 2018 is hereby amended by striking out the word “Five” and inserting in place thereof the following word – “*Six*”.

(C) Section 1 Paragraph (b)(4) of Chapter 268 of the Acts of 2018 is hereby amended by striking out the word “Three” and inserting in place thereof the following word – “*One*”.

(D) Section 1 Paragraph (f) of Chapter 268 of the Acts of 2018 is hereby amended by striking out the number “2” and inserting in place thereof the following number – “4”.

SECTION 2. This act shall take effect upon its passage.

The General Court may make vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.

ADVISORY COMMITTEE’S RECOMMENDATION

Background:

Warrant Article 25 would transfer two liquor licenses currently assigned to the Washington Square commercial district, with one reassigned to Coolidge Corner and one reassigned to Brookline Village.

Any Massachusetts business that intends to sell liquor in their establishment must obtain a license to do so from its municipality’s licensing board. In Brookline the Select Board carries out that function. The maximum number of licenses that a municipality can issue is determined by state law. Section 17 of MGL Ch. 138 sets quotas based on population for various types of liquor licenses, including “pouring” licenses (for liquor served on the premises) for both beer and wine only and for all types of liquor, as well as licenses for the sale of alcohol to be consumed off the premises for both the sale of beer and wine only and for all types of liquor.

Starting about a decade ago, most or all of the Town’s 75 “pouring” licenses (63 for “all types of liquor” and 12 for beer and wine only) had been issued to restaurants. The lack of licenses available to distribute to new restaurants was a barrier to entry into the Brookline market by potential businesses. To alleviate this shortage, the Town sought to increase our quotas of pouring liquor licenses. In the fall of 2012, Town Meeting authorized a home rule petition seeking legislative approval for eleven additional liquor

licenses, eight of which were for specific sites expected to undergo redevelopment. The remaining three licenses were to be made available for any location in Town for which a food purveyor had a need for a license. That petition was denied by the Legislature. The Joint Committee on Consumer Protection and Professional Licensure (Joint Committee), which reviews such legislation for referral to a vote by the Legislature did not support the Town's request because it looks unfavorably upon a municipality's home rule petition if it proposes to assign licenses to specific locations, unless those sites have already been selected by a restaurateur to locate its business.

In the fall of 2017, Town Meeting voted to support Warrant Article 14, another home rule petition for additional liquor licenses. This petition sought legislative approval for 40 liquor licenses, but again the majority of licenses were for specific sites that had yet to be developed and for which there was no identifiable entity ready to establish a particular business. The remainder of the requested liquor licenses were to be assigned to broadly defined "development opportunity areas." This time, however, instead of rejecting the petition, the Joint Committee worked with the Town to modify the proposed distribution of licenses so that they would not be restricted to specific sites but rather to areas targeted for economic development. The Joint Committee also reduced the number of licenses from 40 to 12 and specified that any licenses remaining unissued within two years of the effective date of the authorizing legislation (October 11, 2020) would expire. It also noted that the Town could reapply for more licenses in future years if it could demonstrate need. The final legislation thus resulted in the following assignment of licenses:

- Three licenses for a Brookline Village Target Commercial Area
- Five licenses for a Coolidge Corner Target Commercial Area
- One license for a JFK Crossing Target Commercial Area, and
- Three licenses for a Washington Square Target Commercial Area

Ten of the twelve licenses are now being utilized by restaurants. The two remaining licenses, both of which are assigned to the Washington Square Target Commercial Area, will expire if they remain unused by October 11. Because of the importance to the vibrancy of our commercial areas, this warrant article seeks legislative approval to extend the deadline for issuing the two remaining licenses by two years and to reallocate them to Coolidge Corner and Brookline Village, which the Small Business Development Committee has determined are the areas of Town which will likely have the greatest future demand for such licenses.

Discussion:

The current economic conditions resulting from Covid-19 make it unlikely that the remaining two available liquor licenses will be issued to new restaurants in Washington Square prior to their expiration date in October. The Advisory Committee therefore strongly supports the efforts of the Small Business Development Committee to obtain legislative approval to extend the expiration date for these unused licenses by two years.

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By doing so, the Town will have them available for issuance once conditions become more favorable again for commercial activity. Much real estate development is either underway or planned for Coolidge Corner and Brookline Village, and the availability of liquor licenses is an important element to encourage and support the vibrancy of commercial activity in those areas.

Recommendation: By a vote of 27-1-0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

SELECT BOARD

Bernard W. Greene, Chair
Benjamin J. Franco
Nancy S. Heller
Heather Hamilton
Raul A. Fernandez

ADVISORY COMMITTEE

Michael Sandman, Chair