

ARTICLE 1 OF THE FIRST SPECIAL TOWN MEETING

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:

Article 1 of the First Special Town Meeting to be held within the Fall Special Town Meeting at 7:30 p.m. on November 14, 2017 ("STM 1") offers needed flexibility in seeking a successful approach to address the increased student enrollment in the Brookline Public Schools. The First Special Town Meeting was requested by citizen petitioners so that they could propose a modified version of Article 5 of the Fall 2017 Special Town Meeting.

By a vote of 23–1–0, the Advisory Committee recommends FAVORABLE ACTION on a motion that provides that a portion of the funds appropriated by the 2017 Annual Town Meeting be used to continue investigating feasibility at Pine Manor College/Baldwin and to undertake site evaluation services (pre-feasibility) at a number of other sites, including, but not limited to, the Pierce and Baker Schools, as well as to engage in full feasibility at one or two "final" sites to build a ninth school or to expand, replace, or substantially reconstruct an existing school or schools as a means to expand enrollment capacity.

The language of the recommended motion can be found at the end of this report.

BACKGROUND:

Since 2005, the Brookline Public Schools have witnessed enrollment growth of 28% district-wide. Preliminary projections anticipate additional growth of more than 10% from FY2018 through FY2022. These enrollment increases, coupled with School Committee policies, have led to the need to expand educational facilities at both the K–8 and high school levels. "Expand-in-place" has added 54 classrooms for the elementary schools. A major capital project at Devotion is creating some additional classrooms. Private space has been leased for pre-K programs and the Pierce School's upper grades as well as for administrative purposes. Finally, new classrooms and offices have been created from existing spaces within the eight K-8 schools, sometimes with unsatisfactory results, including a principal and vice-principal sharing an office, students walking through an active classroom to get to their class, and a classroom created in the passageway between two buildings.

The chair of the School Committee has noted that common spaces—gymnasiums, libraries, and cafeterias—have not kept pace with the growing numbers of students. As a consequence, in some schools the first lunch period starts at 10:15 a.m., and this year, at the Pierce school, gym space has been leased off-campus. The May 2015 operating override allowed the Public Schools of Brookline (PSB) to respond to the growing number of students by adding staff, but the PSB has not been able to add right-sized spaces in the schools.

In the spring of 2017, Town Meeting authorized \$1.5 million to advance the design of a ninth K–8 school to address capacity in the schools. At that time, the location for the ninth school was thought to be the Baldwin School site, with access and parking in the Soule Recreation area. However, Town Meeting’s vote was conditioned so that \$1.4 million of the total could not be expended until a favorable vote by a subsequent Town Meeting and until such time as the Board of Selectmen, School Committee, and an Ad Hoc Subcommittee of the Advisory Committee had received the opinion of Town Counsel and/or outside counsel hired to review land use limitations and protections on both the Baldwin and Soule parcels.

When, subsequent to the May 2017 Town Meeting, the legal and procedural implications of building on a portion of the Baldwin site became clearer, the possibility of the purchase or taking by eminent domain of property belonging to Pine Manor College (PMC) came under consideration. As a result, the Board of Selectmen filed Article 5 for the Fall 2017 Special Town Meeting to be held at 7:00 p.m. on November 14, 2017 (“Article 5”) to preserve the option of siting a ninth elementary school at an alternate site.

Discussions between Pine Manor and the Town regarding the use of a 7-acre site at the college were initiated by the Town in late May 2017. At a meeting between Town officials and PMC President Thomas O’Reilly, the latter expressed little interest in exploring a strategic collaboration with the Town. In early September, Town officials informed Mr. O’Reilly that the Town was considering expanding the sites under consideration for the ninth school to include use of its eminent domain authority to acquire approximately seven acres of Pine Manor-owned land along Heath St and Woodland Road.

On September 26, 2017, the Board of Selectmen announced the decision to expand consideration of ninth school sites to include the Pine Manor land. Mr. O’Reilly had been informed that the announcement was coming. Approximately one week later, on October 3rd, the Board of Selectmen and the School Committee held a joint public meeting for the presentation by JLA, the project architect, of site alternatives for a ninth school, including high level site planning for the PMC parcel to determine if a school could be built on that site.

Also in October 2017, a petition with more than 200 signatures was presented to the Board of Selectmen requesting that the Board call a Special Town Meeting to consider a proposal (STM 1) that would expand the scope of Article 5 by examining more than one alternate site for a ninth school; by exploring the renovation and expansion of an existing K–8 school; and by contemplating a two-site solution.

DISCUSSION:

Article 5

Advisory Committee members found Article 5 lacking because of the limitations it imposes on seeking options to address school capacity challenges. The Article offers only

three options, all of which were perceived to have potential disadvantages, or at least unknowns. The first option would be to build on the Baldwin and Soule sites, which would require embarking on the land conversion process mandated by both the National Park Service and Article 97 of the Massachusetts Constitution. Use of the Baldwin playground site, which lies south of the existing Baldwin School, is restricted to recreational purposes, because that site was improved with a federal Land and Water Conservation Fund grant. The National Park Service has informed the Town that the terms of the grant mandate that the entire Baldwin parcel be devoted to recreational uses. Using the Baldwin playground site for school purposes would require that the Town acquire land not currently used for public park and recreational purposes and convert it to those purposes, creating a “swap” for the land at Baldwin and Soule that would be converted for school purposes. Assuming “swap” land is available and deemed acceptable to both the Massachusetts Executive Office of Energy and Environmental Affairs and the Park Service, this approach could take considerable time to wend its way through the conversion process and ultimately would need the approval of the Park and Recreation Commission, Town Meeting, the Massachusetts Legislature, the governor of Massachusetts, and the U.S. secretary of the interior.

The second option under Article 5 would be to pursue building “Baldwin North,” an up-to five-story school on the one and one-half acres of unrestricted Baldwin land. Such a small site would be unlikely to accommodate the pick-up and drop-off of students; would be almost certain to generate considerable traffic tie-ups on abutting streets; and would involve building underground parking, a costly endeavor.

The third choice under Article 5 would be to take steps to acquire PMC land and build the school on that site. To date the college and its attorneys have made clear that PMC is not interested in selling off any more of its property. They have also made clear that they are determined to fight a taking and have identified possible impacts of such action, including, at a minimum, significant time delays in proceeding with any construction project due to legal challenges under the State and local Wetlands Protection Acts.

The attorney representing 18 families who live near PMC has contended that the parcel under consideration includes a pond that is actually larger than JLA had underestimated in its site planning. Because of this miscalculation, the buildable portion of the site is actually smaller than had been assumed. The attorney also has claimed that if the development plan failed to satisfy both the Massachusetts and Brookline wetland protection regulations, that plan would be legally challenged and resolving the issue could take up to ten years. Finally, he pointed out that due to a recent order by President O’Reilly, the Town would not be able to go on to the land to further investigate the wetlands issues.

The attorneys for PMC and for the neighboring families also warned the Town about the expenditure of considerable sums of money for court costs as well as land acquisition (the fair market value of the seven acres under consideration) and compensation for the diminution of the entire property. In the words of one of the lawyers, if the Town pursued

taking Pine Manor land, it could very well be signing “a blank check with the blank filled in by a jury in Norfolk County Superior Court.”

It should be noted that the Town’s outside counsel have not yet opined as to the validity of the assertions made by the two attorneys, nor has outside counsel submitted a written report on the implications of the “Westfield” decision.

Most recently, it was observed by President O’Reilly that building a school on PMC land would fail to meet eight of the nine Climate Action Committee’s standards for building a new school.

Some members of the Advisory Committee opposed Warrant Article 5 because they believe that building a ninth school at Baldwin or at Pine Manor is poor planning and poor policy, due to the paucity of public school students living in this part of town. Building a ninth school on either site would mean that the school would not be “walkable.” Currently over 80% of K–8 students Town-wide live within reasonable walking distance of at least one school and no individual school has less than roughly 45% of its students living within such a walkable radius. A walkable school, in addition to creating and maintaining a sense of community, results in lower busing costs and reduces the overall carbon footprint of the community, with resulting financial as well as environmental implications. Other members opposed an eminent domain taking of Pine Manor property and/or building on green space.

STM 1

A vast majority of Advisory Committee members expressed a strong preference for STM 1 over Article 5 because the former offers increased flexibility in continuing the search for a solution (or solutions) to the classroom capacity issue. Although, as stated above, the assertions of the college’s attorney and the neighbors’ attorney regarding the legal and monetary consequences of attempting to build at Pine Manor have not yet been thoroughly vetted by the Town and its outside counsel, it would, in the opinion of almost all Advisory Committee members, be prudent to investigate additional options.

STM 1, as amended by the Advisory Committee, expands the scope of Article 5 to include an examination of more than one alternate site (in addition to Baldwin and PMC) and specifies the Pierce School and abutting Harvard Street buildings as well as the Baker School as two of those alternate sites. In addition, if, after public presentation and discussion, one “finalist” is chosen by the Selectmen and School Committee with input from the Advisory Committee’s Ad Hoc Subcommittee on a Ninth School, up to \$400,000 can be expended for feasibility for that final site, but if there is more than one “finalist,” up to \$700,000 can be expended for feasibility for the final sites.

Under the Advisory Committee’s motion, an expansion of the Baker School could occur either with the construction of another building or with an addition/additions to the existing building, along with the enlargement of common spaces. The language of the Advisory Committee’s motion also makes it clear that the list of properties eligible for further investigation would not necessarily be limited to just the Baker and Pierce

Schools. Finally, legal services are specifically mentioned as part of “site evaluation services.” Other services, while not spelled out in the motion, are expected to include site planning, analyses of legal and/or physical limitations of the site, construction and project cost estimates, estimated project completion date, and traffic studies, when appropriate.

STM 1 allows the Town to pursue a two-site solution to the challenges of school enrollment growth, one in North Brookline and one in South Brookline. The Pierce School, built in the 1970s, would be studied as part of the two-site solution because it is located in what many residents regard as the “epicenter of school capacity need,” is in serious need of complete renovation (or replacement), and has been on the waiting list for capital improvements for many years, only to be “bumped” every time by expenditures needed for classroom capacity at other K–8 schools, most recently Driscoll. The Pierce School lacks ADA-compliant bathrooms and an elevator in one of its buildings. It has space deficits, as defined by Massachusetts School Building Authority (MSBA) standards, in many of its specialized spaces. Pierce’s other deficiencies include inadequate electrical wiring, an undersized cafeteria, a classroom in a tunnel, an off-campus gym, and dark and dim hallways. Because of its interior layout, the school is noisy and distracting for a number of students to the point that some of them wear noise reduction headphones.

Renovating and expanding Pierce would help to tackle overcrowding in North Brookline schools and would address the current inequity issue among the elementary schools. This approach also would be a green solution to classroom capacity shortages because it would not take up any significant amount of existing open space and would be walkable for a large number of families, thereby reducing car trips and traffic congestion. The petitioners believe that Pierce can be enlarged to accommodate an additional 390 students, or two more sections of each grade, but of course, whether such expansion could be accomplished is not known at this time. Appropriating funds to study these questions would be a first step toward obtaining answers.

Under STM 1, the Town would also continue both to do due diligence for the three options under Article 5 and to seek a feasible South Brookline site that could add capacity in that part of the community, so no time would be lost in pursuing the goal of identifying a solution to the challenge at hand. In addition to further investigating the potential of the Baker School site, other possibilities south of Route 9 could include a two-section school at Baldwin or buying or taking private land in South Brookline, preferably in or near the southeast corner of the Town in the Buttonwood/Putterham area, where sizable numbers of students live. In addition, under the STM 1 scenario, if no South Brookline site proved to be feasible at this point in time, a North Brookline site could still be pursued, and if no North Brookline site proved to be feasible at this point in time, the Town would still have gathered important information for the future renovation of Pierce, presumably supported with funding from the MSBA.

At least one School Committee member has publicly stated that Pierce is too complex and costly a project to undertake now, and further investigating it at this point in time will slow down the process of identifying a ninth school site and building a school. Advisory

Committee members acknowledge that there are many questions related to the Pierce project, including whether the costs would be too exorbitant to consider for a debt exclusion override ballot question; whether adequate expansion could take place on top of four underground garages; and whether re-locating Pierce students and High School students during the same time period would be possible. Nevertheless Advisory Committee members recognize the current inequity among Pierce and other K-8 schools, are impressed by the community's support of the project, and believe that the concept has sufficient merit to explore further. The assertion by some that "Pierce would not solve the current capacity problem" was viewed as lacking sufficient evidence.

Similarly, members of the Advisory Committee agreed that there should be further research as to the Baker School site's potential in being part of the solution for classroom capacity, especially since Baker was one of three "finalists" in last year's deliberations in selecting a site for a ninth school. Proponents for Baker's inclusion on the list for site evaluation studies emphasized that they were in no way suggesting that an additional 800-student school be built at Baker, as suggested by last year's feasibility study. Rather, their question was whether the Baker site could accommodate the projected student growth in just that school's part of Brookline, both in terms of new classrooms and right-sizing other spaces such as offices, the library/media center, gymnasium, cafeteria, and other dedicated spaces.

While a minority of Committee members favored eliminating PMC and/or the Baldwin School site from further consideration for a ninth school because of concerns that taking land from Pine Manor would cause an override to fail and that siting a school in this particular area raises significant open space and environmental concerns, the vast majority voted to keep the two properties in contention.

There was also a suggestion that if there continues to be significant enrollment growth, the METCO and Materials Fee programs could be suspended (while retaining currently enrolled students) and/or class size be slightly increased until such time as capacity can be successfully addressed. The School Committee/METCO policies for these programs call for enrolling nonresident students on a space-available basis and there is currently no space available. School Committee guidelines for class size recommend 21–23 students in kindergarten through third grade. It was noted that as of October 6, 2017, in the 122 sections of grades K–3, 80 had fewer than 22 students. School Committee guidelines also recommend up to 25 students in grades four through eight. As of October 6, 2017, 108 of the 146 sections of those grades had fewer than 22 students.

There was also considerable discussion as to whether any existing school site should be specified in the vote, with a couple of Committee members asserting that the sites that should be examined, would be, and that no suggestions from Town Meeting were necessary because all potential sites would be examined without that direction. In response, it was stated that the only guaranteed way to have the Baker and Pierce sites evaluated for their potential to address student enrollment was to include them in the vote of Town Meeting. Without that, there would be no obligation—other than a political one—to proceed with such analyses. It was also stated that specificity was important

since it identified the places on which further study should focus. The phrase “but not limited to” addressed any concern that the Committee was trying to limit or control options.

Advisory Committee members firmly believe that the Board of Selectmen and School Committee should make available to Town Meeting members, either in writing or on the floor of Town Meeting, more detailed information on how sites for evaluation services would be selected; what, besides legal analysis, those services would entail; and what the anticipated timeline would be for the process leading up to the decision of going forward with a single-site or multi-site solution. There was also consensus that the Override Study Committee (OSC) should be apprised and consulted, either as a group or via the two OSC chairs, Select Board members Franco and Hamilton, as to the cost projections of the “finalists” in the selection process.

The Advisory Committee initially recommended Favorable Action on the following motion:

VOTED: That the Town re-appropriate the following amounts out of funds previously appropriated under Section 13, Special Appropriation No. 67 of Article 9 of the 2017 Annual Town Meeting, to be expended under the direction of the Building Commission, with any necessary contracts greater than \$100,000 to be approved by the Board of Selectmen and the School Committee, as follows: (1) \$300,000 for the purpose of further site evaluation services, including legal services, at the Baldwin/Pine Manor sites and site evaluation services, including legal services, at alternate sites, which shall include but not be limited to the Pierce School and adjacent properties, and the Baker School; (2) an additional \$400,000, for further feasibility study on a single-site solution; and (3) a further additional \$300,000 (or a total of \$700,000 for feasibility studies), for further feasibility study on a multi-site solution should a multi-site solution be chosen. The evaluation and determination of a single- site or a multi-site solution prior to the expenditure of funds for feasibility studies referred to in (2) and (3) above shall include the options of constructing a new school and of demolishing, renovating, and expanding existing schools, with the determination of a single-site or multi-site solution made by the Board of Selectmen and School Committee with the advice of the Ad Hoc Subcommittee of the Advisory Committee, after evaluation information has been received by the Board of Selectmen, School Committee and Ad Hoc Subcommittee and publicly presented for discussion to the extent advised by Town Counsel.

After further review of the language of the motion, it was determined that minor revisions should be made in order to ensure that the appropriated funds could be spent in accordance with the intent of the motion. The motion below includes the necessary revisions to the previous motion. Deletions are shown in ~~strike through~~; addition in **bold**.

RECOMMENDATION:

By a vote of 23–1–0 the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town re-appropriate ~~the following amounts out of~~ **up to \$1 million in** funds previously appropriated under Section 13, Special Appropriation No. 67 of Article 9 of the 2017 Annual Town Meeting, to be expended under the direction of the Building Commission, with any necessary contracts greater than \$100,000 to be approved by the Board of Selectmen and the School Committee, as follows: (1) \$300,000 for the purpose of further site evaluation services, including legal services, at the Baldwin/Pine Manor sites and site evaluation services, including legal services, at alternate sites, which shall include but not be limited to the Pierce School and adjacent properties, and the Baker School; (2) an additional \$400,000, for further feasibility study ~~on a single site solution~~; and (3) a further additional \$300,000 (or a total of \$700,000 for feasibility studies), for further feasibility study on a multi-site solution should a multi-site solution be chosen. The evaluation and determination of a single- site or a multi-site solution prior to the expenditure of funds for feasibility studies referred to in (2) and (3) above shall include the options of constructing a new school and of demolishing, renovating, and expanding existing schools, with the determination of a single-site or multi-site solution made by the Board of Selectmen and School Committee with the advice of the Ad Hoc Subcommittee of the Advisory Committee, after evaluation information has been received by the Board of Selectmen, School Committee and Ad Hoc Subcommittee and publicly presented for discussion to the extent advised by Town Counsel.