

**Brookline Advisory Committee**  
**Ad hoc Subcommittee Report - Amended**  
**Warrant Article 1 - Special Town Meeting October 5, 2021**

The Ad Hoc Subcommittee of the Advisory Committee for Article 1 STM 3 held a public hearing on September 17, 2021, which was continued to September 20, 2021, and which, due to current health concerns, was held via Zoom. The purpose of the hearing was to review Warrant Article 1 to be acted upon at Special Town Meeting 3 on October 5, 2021. In attendance were Subcommittee members Steven Kanen (Chair), Harry Friedman, Amy Hummel, Carlos Ridruejo, Paul Warren, and Chi Chi Wu.

Also present were: Raul Fernandez (Vice-chair of the Select Board), Arielle Kristan (Attorney for Town of Brookline, Hirsch Roberts Weinstein LLP), Melissa Goff (Deputy Town Administrator), Ann Braga (Director, Human Resources), Jonathan Margolis (TMM, P7), and members of the public.

**BACKGROUND**

Article 1, and its associated Motion (Appendix A) petitioned by the Select Board, seek Town Meeting to authorize the Town Treasurer, with the approval of the Select Board, to borrow \$11,000,000 to settle all claims asserted by Mr. Gerald Alston against the Town of Brookline, Town officials, and related parties.

Submission of this Article follows a Settlement Agreement (Appendix B) entered on September 14, 2021 between the Town and Mr. Alston to resolve the ongoing litigation currently in the U.S. District Court.

The universal settlement agreement includes a settlement payment to Mr. Alston of \$11,000,000 that resolves the litigation and fully and finally resolves any claims Mr. Alston may have against Brookline, the Brookline Select Board, and/or the individual defendants named in the litigation.

The Select Board evaluated four scenarios (Appendix C) as provided by the Town Administrator and decided on Option 3, which fully funds the \$11m settlement amount through borrowing. The Select Board's decision is represented by the Motion included in Attachment A, which is more restrictive than the wording of the Warrant Article.

The Municipal Finance Oversight Board (MFOB), as provided by M.G.L. c.44, 7(3), is the governing body that determines the borrowing period "after taking into consideration the ability of the city, town or district to provide other essential public services and pay, when due, the principal and interest on its debts and such other factors as the board may deem necessary and advisable."

The Select Board has stated that if Town Meeting fails to authorize funding for the agreed-upon settlement, it will result in a resumption of the litigation, which carries potential financial and reputational risk for the Town, and which will likely impose further costs on the Town.

The Select Board has stated that it believes that the settlement and the associated action by Town Meeting “is the right thing to do and in the best interest of the Town”.

## **PUBLIC COMMENT**

Several members of the public spoke during the hearing and also provided written comments (Appendix D). All testimony provided was in support of the settlement and the associated Warrant Article. The following are representative of the comments provided.

- This action is morally correct.
- The continued litigation of this matter will cause additional harm to Mr. Alston and other members of the community and further malign Brookline’s reputation.
- The Advisory Committee should focus its efforts on explaining the financial implications of funding the \$11m settlement.
- The Advisory Committee should not propose an alternate settlement amount.
- It would be helpful to Town Meeting to understand if the \$11m settlement amount is reasonable based on comparable settlements/judgments.
- In principle, the Town should pay the settlement on a very short time frame (1-2 years) via some combination of reserve funds + bonding since the residents, over the last decade, should have been paying - and we should have achieved this result by annually funding a sufficient reserve fund.
- The Advisory Committee should include in its report the need for the Town to address the underlying cause of the litigation and what should be done to systemically prevent future occurrences.
- The Town historically has funded financial obligations going forward through the tax levy. It would be unprecedented to engineer the settlement in a way that would penalize select group of residents by only looking backwards.

## **DISCUSSION**

The subcommittee’s discussion focused on two distinct aspects of the settlement. These two aspects are the amount of the settlement and the options on how to fund the settlement.

The subcommittee also discussed the need for the Town to address the underlying factors that resulted in the litigation, but believed it to be outside of the scope of the Warrant Article and the Special Town Meeting Warrant.

The settlement amount and the options to fund the settlement are discussed below.

### **Settlement Amount**

The subcommittee met in executive session with legal counsel and others to be briefed on the \$11m settlement amount agreed to by the Select Board. Three comparable discrimination cases were discussed<sup>1</sup>. The awarded amounts included \$5m (1999), \$11.1m (2013) and \$28m

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<sup>1</sup> Clifton vs. MBTA, Charles vs. City of Boston, Toussaint vs. Brigham & Women’s Hospital

(2018). Raul has offered to request counsel to provide a more extensive and detailed list of recent court decisions and settlements in similar litigation.

Counsel also advised that the litigation climate for discrimination cases has changed post George Floyd, and the impact on the amount awarded could be substantial. In that regard, each of the above referenced judgements or settlements provided by counsel for comparison took place prior to last summer's protests over the killings of George Floyd and other Black Americans.

The subcommittee also considered the written opinions of the appellate courts in this litigation, which are unfavorable with respect to the Town<sup>2</sup>.

The subcommittee discussed with counsel the risks associated with not approving the negotiated settlement. The risks shared by counsel include:

- Ongoing legal costs that could exceed \$750,000 for litigation and additional appeals.
- A judgement that may substantially exceed the agreed to \$11m settlement.
- Continued harm to Brookline's reputation.

The subcommittee believes, based upon the unique facts in this litigation, the recent unfavorable appellate decisions in this litigation, the litigation climate in general for discrimination cases post George Floyd, the costs of continued litigation, and a review of relevant cases presented to the subcommittee, that the \$11m settlement agreed to by the parties and recommended by the Select Board, with the support and advice of reputable counsel, is within the range of reasonable settlement amounts for this litigation.

### **Funding Options**

The subcommittee discussed three potential scenarios for funding the \$11m settlement. The scenarios included 1) issuing bonds for the entire amount (Select Board Proposal), 2) combining the limited use of reserve funds with the issuance of bonds, and 3) combining very significant reserve fund reductions along with cuts to capital and operating budgets.

The subcommittee believes that all three alternate funding options noted above, should be considered in making its recommendation to Town Meeting.

Each of the three options discussed by the subcommittee are outlined below. All borrowing options are based on an interest rate of 2.5%. The actual interest rate would be determined at the time of borrowing.

#### **Option 1 – Issue Bonds for Entire Amount**

Guiding Principle: Minimize impact on Town Services and no threat to the Town's bond rating.

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<sup>2</sup> Town of Brookline v. Alston, 487 Mass. 278, 167 N.E.3d 385 (2021); Alston v. Town of Brookline, 997 F.3d 23 (1st Cir. 2021).

This option would borrow the full \$11m subject to a two-thirds vote of town meeting AND, as provided in the agreement, approval of a special state review board. This borrowing option provides significant flexibility and time (possibly ten years) to plan how to meet the annual debt service costs. Interest costs on the Town’s borrowing remain at historic low rates and we are advised that the use of debt for this purpose will not be viewed negatively by the rating agencies if there is solid plan to fund it.

- o Requires 2/3 Town Meeting Vote
- o Cuts spread over multiple years
- o Unlikely to result in bond downgrade

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2033
<b>Funding Source</b>											
GO Bond	11,000,000										
	11,000,000										
<b>Budget Impact</b>											
Debt service payment		1,375,000	1,347,500	1,320,000	1,292,500	1,265,000	1,237,500	1,210,000	1,182,500	1,155,000	1,127,500

Option 2 – Combine issuance of Bonds with limited Reserve Fund Utilization

Guiding Principle: Minimize impact on Town services while lowering borrowing costs and not affecting the Town’s bond rating.

This option will draw down the Reserve Fund, Liability Fund and Tax Overlay Surplus funds by \$3m and issue bonds for the remaining \$8m. The Liability Fund is the only account that would require immediate replenishment (although that is subject to Town policy and not a legal requirement).

- Requires 2/3 Town Meeting Vote (for issuing of bonds and accessing Liability Fund)
- Reduces total interest paid
- Reduces impact on budget over term of bonds
- Unlikely to result in bond downgrade

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2033
<b>Funding Source</b>											
Reserve Fund	1,700,000										
Liability Fund	1,000,000										
Overlay Surplus	300,000										
GO Bond	8,000,000										
	11,000,000										
<b>Budget Impact</b>											
Debt service payment		1,000,000	980,000	960,000	940,000	920,000	900,000	880,000	860,000	840,000	820,000
Replenishment Liability Fund*		1,000,000									
<b>TOTAL</b>		<b>2,000,000</b>	<b>980,000</b>	<b>960,000</b>	<b>940,000</b>	<b>920,000</b>	<b>900,000</b>	<b>880,000</b>	<b>860,000</b>	<b>840,000</b>	<b>820,000</b>

\* Policy requires immediate replenishment from following year's free cash

Option 3 – Combine maximum Reserve Funds Utilization with Cuts to Operating and Capital Budgets

Guiding Principle: Provide for majority vote approval and pay off obligation quickly

This option is intended to provide a path to approval requiring a majority vote at Town Meeting and not a 2/3rds vote. The majority approval option is achieved by excluding borrowing as a

source of funding or use of the Liability and Stabilization Funds, all of which require a 2/3rds vote. This option would use the full balances of the FY22 Reserve, and Surplus Tax Overlay Funds and require an additional \$6.9m from General Revenue.

- Requires a majority vote to pass instead of 2/3rds
- Would pay off the obligation in 2 years
- Requires \$7.4m in budget cuts in FY22 and \$1.6m in budget cuts in FY23
- Significantly reduces our ability to fund unforeseen events
- May negatively impact the Town’s Bond rating

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2033
<b>Funding Source</b>											
FY22 Reserve Fund	3,800,000										
Overlay Surplus	300,000										
General Fund Revenue	6,900,000										
	11,000,000										
<b>Budget Impact</b>											
Capital and Operating cuts	6,900,000										
Snow and Ice deficit*		1,600,000									
FY22 unforeseen**	500,000										
	7,400,000	1,600,000	-	-	-	-	-	-	-	-	-
* If deficit not resolved by the end of the year it gets added to FY23											
** Estimating based on \$2.1M average RF draw \$1.6M for Snow and Ice and \$500K for other emergencies, would require additional reductions to fund											

There are several supporting documents used to review and discuss funding scenarios:

- Appendix C: Funding Scenarios Presented to Select Board by Town Administrator
- Appendix E: Legal Expenses, Fund Balances and Bond Rates
- Appendix F: Reserve Fund History FY88 – FY21
- Appendix G: Possible Budget Reductions
- Appendix H: Bond Repayment Scenario (illustrative purpose only)
- Appendix I: Reserve Policies
- Appendix J: Accessing Liability Fund

## **RECOMMENDATIONS**

By a vote of 5-0-0 (Harry Freidman left before vote), the subcommittee believes, based upon the unique facts in this litigation, the recent unfavorable appellate decisions in this litigation, the litigation climate in general for discrimination cases post George Floyd, the costs of continued litigation, and a review of relevant cases presented to the subcommittee, that the \$11m settlement agreed to by the parties and recommended by the Select Board, with the support and advice of reputable counsel, is within the range of reasonable settlement amounts for this litigation.

Furthermore, with respect to funding the proposed settlement, the subcommittee recommends that the full Advisory Committee consider all three options outlined in this report in formulating its recommendation to Town Meeting.

## **Appendix A**

### **Warrant Article, Explanation, and Motion**

#### Article

To see whether the Town shall vote to raise and appropriate, transfer from available funds, or authorize the Town Treasurer with the approval of the Select Board, to borrow by the issuance of bonds or notes under the provisions of G.L. c. 44, §7(3), or any other authority, the sum of \$11,000,000, to pay costs of a settlement in the matter of Gerald Alston v. the Town of Brookline, et al, United States District Court No. 1:15-cv-13987-GAO pertaining to Gerald Alston's employment as a Brookline Firefighter and claims he asserted against the Town and Town officials, including the payment of all costs incidental or related thereto, said funds to be expended under the direction of the Select Board, and further, 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 G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount; or take any other action relative thereto.

#### Explanation

This article seeks Town Meeting authorization to raise and appropriate, transfer from available funds, or authorize the Town Treasurer to borrow \$11,000,000 to settle all claims asserted by Mr. Gerald Alston against the Town of Brookline, Town officials, and related parties.

Submission of this article follows a Settlement Agreement entered on September 14, 2021 between the Town and Mr. Alston to resolve the ongoing litigation currently in the U.S. District Court for the District of Massachusetts (the "Court") captioned Gerald Alston v. Town of Brookline, Massachusetts et al., Docket No. 1:15-cv-13987-GAO (the "Litigation") in which Mr. Alston has asserted claims arising from his employment as a Brookline firefighter and his termination from that position.

The Massachusetts Civil Service Commission reinstated Mr. Alston to his position as a Brookline firefighter and the Massachusetts Supreme Judicial Court has upheld Mr. Alston's reinstatement. Following decisions from the U.S. Court of Appeals for the First Circuit, Mr. Alston's remaining claims in the Litigation are against Brookline and against five town officials (the "Individual Defendants").

The Parties agree that it is in their mutual interest to resolve the Litigation and to fully and finally resolve any claims Mr. Alston may have against Brookline, the Brookline Select Board, and/or the Individual Defendants named in the Litigation.

The Town and Mr. Alston have therefore entered a universal settlement agreement that includes a settlement payment to Mr. Alston of \$11 million.

Should Town Meeting fail to authorize funding for the agreed-upon settlement, the parties will resume litigation, which carries potential financial and reputational risk for the Town, and which

will impose costs on the Town. We believe a settlement, even of this magnitude, is the right thing to do and in the best interest of the Town, and we urge all Town Meeting Members to support funding it.

Should Town Meeting vote favorably on this Warrant Article, this matter will be concluded. We believe a settlement, even of this magnitude, is the right thing to do and in the best interest of the Town, and we urge all Town Meeting Members to support funding it.

Motion

That the Town appropriates \$11,000,000 to pay costs of a settlement in the matter of Gerald Alston v. the Town of Brookline, et al, United States District Court No. 1:15-cv-13987-GAO, pertaining to Gerald Alston's employment as a Brookline Firefighter and claims he asserted against the Town and Town officials, including the payment of all costs incidental or related thereto, said funds to be expended under the direction of the Select Board, and that to meet this appropriation, the Treasurer, with the approval of the Select Board is authorized to borrow said amount under and pursuant to G.L. c. 44, §7(3) or any other enabling authority, and to issue bonds or notes of the Town therefor. 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 G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

## **Appendix B Settlement Agreement**

Link to settlement agreement:

[https://meetings.brooklinema.gov/OnBaseAgendaOnline/Documents/ViewDocument/BROOKLINE%20ALSTON%20SETTLEMENT%20AGREEMENT%20\(EXECUTED%20BY%20GA%2009-7-21\).PDF.pdf?meetingId=1390&documentType=Agenda&itemId=27927&publishId=15237&isSection=false](https://meetings.brooklinema.gov/OnBaseAgendaOnline/Documents/ViewDocument/BROOKLINE%20ALSTON%20SETTLEMENT%20AGREEMENT%20(EXECUTED%20BY%20GA%2009-7-21).PDF.pdf?meetingId=1390&documentType=Agenda&itemId=27927&publishId=15237&isSection=false)

## Appendix C

### Funding Options Provided By Town Administrator

**MEMO TO:** Select Board

**FROM:** Mel Kleckner

**SUBJECT:** Options to Fund a Court Judgment/Settlement

**DATE:** July 16, 2021

We have been evaluating various options and outcomes to make a lump sum payment in settlement of the Alston case. There are many layers of assumptions, policy decisions and legal processes involved, but we have created four basic scenarios that are intended to guide your discussion. In each scenario we assume a “worst case” \$11 million settlement paid up front in a lump sum. The impacts of each scenario can be scaled back to account for a lower settlement, but I want to be clear that the Town’s budget and financial reserves are simply not large enough to absorb a lump sum payment exceeding \$2.5 million without creating some or all of the following factors;

- Depletion of the Town’s Liability Fund and/or Operating Reserve Fund, requiring immediate funding solutions when draws against these funds are required (e.g. a legal settlement or snow/ice removal expenses).
- Use of the Town’s Stabilization Fund, requiring a two-thirds vote of town meeting.
- Deferral and/or reduction in popular capital projects and important operating programs.
- Possible downgrade of the Town’s Aaa bond rating. A bond rating directly impacts the interest costs on the Town’s municipal bonds. As an example, the recently financed high school project was borrowed at a rate of 1.835%. A lower Aa bond rating would have generated a rate about .25% higher. The additional cost for a \$100 million project would be an additional \$3.2 million over its term. A bond rating has many other less direct yet substantial benefits such as the Town’s procurement of quality vendors and attracting highly qualified managers.

We have identified four scenarios for funding an \$11 million settlement. Details of capital and operating cuts have not been finalized, but many examples are attached.

**Option 1- Use of Reserves-** This would use the full balance in the Town’s Liability Fund (\$2.7 million) and the FY 2022 Reserve Fund (\$3.8 million). Subject to town meeting approval it

would appropriate surpluses in the Tax Overlay accounts (\$1.0 million) and appropriate the balance of \$3.5 million from the Stabilization Fund.

- o Requires Town Meeting vote for Stabilization Fund
- o Dependent upon substantial reductions in capital and operating budgets necessary to replenish reserves.
- o Likely downgrade to bond rating
- o Puts town at risk for funding other emergencies

**Option 2. Combined Use of Reserves and Budget Cuts-** Similar to Option 1, this would use the full balance in the Town's Liability Fund (\$2.7 million) and the FY 2022 Reserve Fund (\$3.8 million). Subject to town meeting approval it would appropriate surpluses in the Tax Overlay accounts (\$1.0 million). In this scenario however it would reduce capital projects and operating budgets by \$3.5 million rather than appropriating those funds from the Stabilization Fund.

- o Will require substantial reductions in capital and operating budgets necessary to fund the settlement and to replenish reserves
- o Possible downgrade to bond rating
- o Puts town at risk for funding other emergencies

**Option 3: Borrowing-** A new law now allows municipalities to amortize the cost of final judgments by issuing general obligation debt. This option would borrow the full \$11 million subject to a two-thirds vote of town meeting AND approval of a special state review board. This borrowing option provides significant flexibility and time (possibly ten years) to plan how to meet the annual borrowing costs. Interest costs on the Town's borrowing remain at historic low rates and we are advised that the use of debt for this purpose will not be viewed negatively if there is solid plan to fund it.

- o Adds additional layer to process- State approval
- o Requires 2/3 Town Meeting Vote
- o Cuts spread over multiple years
- o Unlikely to result in bond downgrade

**Option 4 : Borrowing less Use of Reserves and Budget Cuts** – This is essentially a combination of all financing options in order to use as much existing capacity as possible in order to lower the amount or term of the required borrowing. For this scenario we would reduce the \$11 million borrowing in half by using 50% of the Liability Fund (\$1.35 million), 50% of the

FY 2022 Reserve Fund (\$1.9 million), \$1.0 million from surplus Overlay accounts and \$1.0 million by reducing capital projects and operating budgets.

- o Adds additional layer to process- State approval
- o Requires 2/3 Town Meeting Vote
- o Cuts spread over multiple years
- o Unlikely to result in bond downgrade
- o A balanced approach of all funding sources

Attached is a spreadsheet laying each of these options side by side along with a listing of capital projects and possible operating budget reductions that are on the table.

All of the above scenarios can be adjusted. We are eager to take advantage of amortizing the expense through municipal borrowing, and believe some hybrid of Option 3 & 4 would be the best approach.

cc: Melissa Goff  
Jeana Franconi

Justin Casanova Davis

Cathy Reuben

Ari Kristan

**Attachment D**  
**Written Public Comments**

**From:** "Toffel, Michael" <[mtoffel@hbs.edu](mailto:mtoffel@hbs.edu)>  
**Date:** September 17, 2021 at 3:59:11 PM EDT  
**To:** "Steve Kanes ([stevenkanes@gmail.com](mailto:stevenkanes@gmail.com))" <[stevenkanes@gmail.com](mailto:stevenkanes@gmail.com)>  
**Subject:** Seeking two things in the AC report re Article 1 STM 3 (\$11 m)

Hi Steve,

In connection with your AC hearings for the subcommittee examining Article 1 of STM 3 - \$11 m proposed settlement, please accept this as a public comment, share with your committee and, as appropriate, in the agenda packet for your next meeting.

I am hoping your committee will address both of the following issues in your report to TM:

1) The amount. Given your superior access to information via Executive Session, please provide some analysis to inform TM whether \$11 m is a reasonable figure, based on comparables. This "comparables" based approach seems \*the only way\* I can imagine informing TM whether \$11 m is indeed reasonable. Failing to provide any insight on this will leave the matter to "trust the negotiating team", some of whose incentives might differ from TM's -- and we might agree that TM is not in an especially "trust the SB" mood.

2) The duration of any bonding. I saw the options you posed at the AC meeting, which is a great start. I think we need to hear \*principles\* that might justify each option. My initial thinking is this: this settlement results from a series of decisions taken over the last decade. In principle, the residents \*over the last decade\* should have been paying -- and we should have achieved by annually funding a sufficient reserve fund. That didn't happen, so I think based on this same principle, we should pay the settlement on a very short time frame (1-2 years) via some combination of reserve funds + bonding. This is \*very\* different from bonding a school or road, where a long duration is justified by the idea that future residents will benefit from it. It is unclear to me who gets to determine the bond duration: below Carla says she thinks it's a state agency, but I am hoping there is a way that TM can specify this. Getting this issue included in the AC report also seems essential.

Thank you for considering these views, and for leading the AC team on this matter.

Regards,  
Mike Toffel, TMM8

## **Appendix E**

### **Legal Expenses, Fund Balances and Bond Rates**

**From:** Melissa Goff <[mgoff@brooklinema.gov](mailto:mgoff@brooklinema.gov)>  
**Subject:** follow-up  
**Date:** September 19, 2021 at 2:15:15 PM EDT  
**To:** "[stevenkanes@gmail.com](mailto:stevenkanes@gmail.com)" <[stevenkanes@gmail.com](mailto:stevenkanes@gmail.com)>  
**Cc:** "Paul Warren ([paulwarren65@gmail.com](mailto:paulwarren65@gmail.com))" <[paulwarren65@gmail.com](mailto:paulwarren65@gmail.com)>

Steve,

Here is some information requested by the ad hoc subcommittee:

#### **Summary of legal expenses to date:**

Alston v. Brookline

Civil Service Commission/SJC Case - This case concerned Alston's appeal of his 2016 termination to the Civil Service Commission and the Town's appeal of that decision. Outside counsel expenditures to date: \$174,244.26 (Louison, et al). This litigation is concluded.

USDC - This case concerns Alston's lawsuit filed in 2015 against the Town/Town officials in the USDC and Alston's appeal of the USDC decision. Outside counsel expenditures to date: \$282,364.50 (Louison, et al). This litigation is pending, and it is noted that Mr. Spiegel is seeking reimbursement for his related attorney fees from the Town.

Case Review: The Select Board hired Attorney Natasha Tidwell to review in part the Town's litigation decisions in these cases. Attorney Tidwell was paid \$70,267.50 for this work.

Settlement: The Select Board hired Attorney Cathy Reuben, et al in May 2021 for purposes of settling the Alston related matters (Alston's Civil Service reinstatement to the payroll and the outstanding First Amendment retaliation claims against the Town/Town officials in the USDC). Expenditures to date: \$58,418.

#### **Recent bond rate experience / impact of a downgrade** (this came from Jeana before she left)

The rate for Brookline's last issue was 1.835%. If we were a Aa, I believe the rate would have been approx. 2.05%, a difference of .22%.

If we used a \$100M project and amortized it over 25 years (level debt service), the difference in cost would be \$3.2M.

#### **Fund balances**

Current balance in the Reserve Fund: \$3,829,013

Current balance in the Liability Fund: \$2,778,635 FY21 interest was \$4,557

Current balance in the Stab Fund: \$11,564,142 FY21 interest was \$577,824

Current balance in Overlay: Est. \$1M surplus Need to verify with Chief Assessor on Monday

[Note: Advised today, 9/21, available balance in tax overlay account is \$320,415]

## Appendix F

### Reserve Fund History FY88 – FY21

RESERVE FUND TRANSFERS FY1988 - FY2021						
	APPROP.	ADDITIONAL APPROP.	TOTAL RESERVE FUND	EXPENDED	UNCOMMITTED BALANCE	% OF RES. FUND EXP.
FY88	488,000	0	488,000	0	488,000	0.0%
FY89	488,000	175,000	663,000	110,000	553,000	16.6%
FY90	479,993	200,000	679,993	0	679,993	0.0%
FY91	435,807	166,000	601,807	181,630	420,177	30.2%
FY92	476,043	300,000	776,043	227,706	548,337	29.3%
FY93	467,190	369,000	836,190	679,376	156,814	81.2%
FY94	467,190	50,000	517,190	421,117	96,073	81.4%
FY95	769,573	0	769,573	483,105	286,468	62.8%
FY96	769,573	100,000	869,573	611,883	257,690	70.4%
FY97	789,573	0	789,573	325,696	463,877	41.2%
FY98	815,000	0	815,000	532,153	282,847	65.3%
FY99	820,500	0	820,500	717,287	103,213	87.4%
FY00	834,276	0	834,276	527,947	306,329	63.3%
FY01	875,000	0	875,000	874,880	120	100.0%
FY02	930,687	0	930,687	343,325	587,362	36.9%
FY03	1,024,730	0	1,024,730	851,935	172,795	83.1%
FY04	1,070,000	0	1,070,000	1,070,000	0	100.0%
FY05	1,476,305	0	1,476,305	1,432,168	44,138	97.0%
FY06	1,524,420	0	1,524,420	843,474	680,946	55.3%
FY07	1,593,755	0	1,593,755	603,861	989,894	37.9%
FY08	1,675,113	0	1,675,113	774,834	900,279	46.3%
FY09	1,746,545	0	1,746,545	1,298,647	447,898	74.4%
FY10	1,834,186	0	1,834,186	1,392,000	442,186	75.9%
FY11	1,851,956	5,000	1,856,956	1,608,475	248,481	86.6%
FY12	1,877,151	0	1,877,151	605,103	1,272,048	32.2%
FY13	1,946,946	0	1,946,946	1,250,621	696,325	64.2%
FY14	2,161,799	0	2,161,799	1,615,626	546,173	74.7%
FY15	2,122,336	0	2,122,336	1,718,000	404,336	80.9%
FY16	2,200,198	0	2,200,198	1,283,888	916,310	58.4%
FY17	2,348,737	1,000,000	3,348,737	2,898,752	449,985	86.6%
FY18	2,460,011		2,460,011	1,939,266	520,745	78.8%
FY19	2,547,870		2,547,870	1,785,722	762,148	70.1%
FY20	2,689,494		2,689,494	2,521,043	168,451	93.7%
FY21	4,620,855	(1,000,000)	3,620,855	1,776,291	1,844,564	49.1%

## Appendix G

### Potential Budget Cuts

<u>Cash Funded CIP Projects</u>	<u>FY22</u>	<u>FY23</u>	<u>FY24</u>
Voting Machines	130,000		
Technology Applications			125,000
Fire Apparatus Rehab			125,000
Bicycle Access Improvements		436,700	
Traffic Calming / Safety Improvements			50,000
Radio Infrastructure	900,000	900,000	900,000
Parking Meter Technology Upgrade	140,000	110,000	
Wash/Harv/Kent/Davis Traffic Signal Upgrade	140,000		
Accessible Pedestrian Signal Conversion	50,000		
Street Rehab - Town	2,072,224	1,880,000	1,930,000
Sidewalk Repair	344,000	353,000	362,000
Washington St. Rehab and Complete Streets	600,000	600,000	800,000
Skyline Park Turf replacement and Park Improvements			360,000
Parks/Playgrounds Rehab/Upgrade	260,000	100,000	140,000
Town/School Ground Rehab.	165,000	90,000	120,000
Tree Removal&Repl/Urban Forestry Mgmt	482,224	240,000	245,000
HVAC Equipment			80,000
Town/School ADA Renovations	85,000	85,000	90,000
Town/School Elevator Renov. Program			100,000
Town/School Energy Conservation Projects	165,000	100,000	205,000
Public Building Fire Alarm upgrades	175,000		225,000
Energy Management Systems		100,000	
Town/School Bldg Security / Life Safety Sys	170,000	170,000	170,000
Classroom Capacity	1,733,928	1,794,410	1,848,592
	<b>7,612,376</b>	<b>6,959,110</b>	<b>7,875,592</b>

#### Potential Operating Budget Reductions

Brookline Forward Vacant Position	95,295		
Reduced hours for HR staff	23,000		
Staff reduction IT (may result in consulting needs)	91,000		
Library - Reduction in PT staff	40,000	Reduced Hours at some branches	
Health Inspectional staff	59,524	Permanently suspend any by laws in relation to environmental oversight for	
Sr. Maintenance Craftperson	75,000		
Police Personnel	100,000		
Fire Personnel	100,000	Potential brown-out of station	
TA Professional services	25,000		
Larz Rink Equipment rental	112,596	Need to confirm we can cancel contract - rink closure	
Economic Development Planner	70,608	Reverse COVID restoration	
School Department	??	TSP feedback needed	

#### New programs delayed / deferred

BodyCams  
 Collective Bargaining  
 Police Reform and Re-imagining Initiatives

**Appendix H**  
**Bond Repayment Scenarios (illustrative purpose only)**

**Provided By Deputy Town Administrator**

TOTAL 11,000,000

TERM 10  
 RATE 2.50%

YEAR	ORIGINAL AMOUNT	PRINCIPAL PAYMENT	INTEREST PAYMENT	TOTAL PAYMENT	ENDING BALANCE
1	11,000,000	1,100,000	275,000	1,375,000	9,900,000
2	9,900,000	1,100,000	247,500	1,347,500	8,800,000
3	8,800,000	1,100,000	220,000	1,320,000	7,700,000
4	7,700,000	1,100,000	192,500	1,292,500	6,600,000
5	6,600,000	1,100,000	165,000	1,265,000	5,500,000
6	5,500,000	1,100,000	137,500	1,237,500	4,400,000
7	4,400,000	1,100,000	110,000	1,210,000	3,300,000
8	3,300,000	1,100,000	82,500	1,182,500	2,200,000
9	2,200,000	1,100,000	55,000	1,155,000	1,100,000
10	1,100,000	1,100,000	27,500	1,127,500	-
10 Year Cost		11,000,000	1,512,500	12,512,500	

## Appendix I

### TOWN OF BROOKLINE RESERVE POLICIES 6/28/2011

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.

o 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.

o 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 Selectmen 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 Selectmen 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.

Appendix J  
Accessing Liability Fund

**Chapter 137. AN ACT RELATIVE TO THE LIABILITY INSURANCE FUND IN  
THE TOWN OF BROOKLINE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 66 of the acts of 1998 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. No direct drafts against the Town of Brookline Liability Insurance Fund shall be made, but insurance premiums, property damage losses, personal injury or other claims, litigation costs, judgments and settlements, recommended for payment by town counsel and approved by a majority of the board of selectmen, may be paid from the fund by vote of the advisory committee and a concurring vote of the board of selectmen. Losses, claims, costs, judgments and settlements, if not recommended by town counsel, may be appropriated by a  $\frac{2}{3}$  vote at any town meeting. The fund may be discontinued by a  $\frac{2}{3}$  vote of an annual or special town meeting. If discontinued, any balance remaining in the fund shall be transferred to the town's unreserved fund balance.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 17, 2001.