

**Kennedy Middle School  
Building Committee**

# Memo

**To:** Building Committee  
**From:** Julian Munnich  
**cc:**  
**Date:** September 10, 2019  
**Re:** Fall Annual Town Meeting; Article 20

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FATM Article 20 is the mechanism for the Town to transfer 5.28 acres of the Kennedy/Brown campus parcel into permanent control of the Conservation Commission under the restrictions of Article 97 of the Massachusetts Constitution. Such a transfer would cause multiple detrimental effects on the near term utility of the campus site, and would irreparably damage the Town's options for the future required development of the campus.

This issue arises from the placement of the new KMS onto several isolated wetland pockets that are the vestigial remains of engineered site drainage features that were not maintained and through negligence became list qualifying features. As such, the Mass DEP permitting process made their removal subject to Army Corps of Engineers regulation.

The ACOE permitting essentially leaves the Town with three options.

- Transfer a mitigating area of land away from school/town use to an Article 97 restricted status under the separate control of the Conservation Commission.
- Making a one-time indulgence payment in the form of a deterrent "fine" of \$132,247.36 as compensation for disturbing the vestigial drainage system.
- Presenting an alternative area/configuration of land for mitigating transfer.

Time-lines:

Developing an alternative land mitigation plan, while perhaps saving some nominal monies, is not practicable as it would harm the tight scheduling of the KMS project.

Paying the compensating amount would be an instantaneous settling of the issue, with the matter being resolved on the presentation of payment.

The voting of the transfer of land to Article 97 restriction would not take effect until the close of Town Meeting and the passage of time for certification of votes and potential appeal of Town Meeting action.

Strategic harm of transferring the land from school/town use to Article 97 restriction:

An undisputable consideration is that the Brown Elementary School will have to be replaced in the near coming decades. Furthermore; even the current new KMS project has made provision for expansion of footprint and capacity. These inevitable future demands on the capacity of the campus site are disadvantaged or rendered impossible by the following considerations.

- Strategic site expansion options eliminated.
  - The utility of, and access to, the school owned frontage and land area of 104 Hartford Street would be permanently removed from the Campus
  - The expansion potential for parking, fields, and facilities on lands of 108 Hartford Street (EverSource parcel) would be practically cut off and distanced from core school facilities. (Even the current ad hoc trail access could not be formalized and improved).
  - The school owned land at 112 Harford Street, with its strategic frontage on Mill Street would be rendered useless for school expansion options.
- Current site utilization options reduced/eliminated.
  - “Lands and easements taken or acquired for such purposes shall not be used for other purposes or otherwise disposed” (Article XCVII)
  - Under zoning the maximum Floor Area Ratio for the site is 0.17
    - The current Kennedy/Brown Campus is 35.2 acres (1,533,312 s.f.) which at 0.17 FAR enables 260,663 s.f. of construction
    - The transfer of 5.28 acres (229,997 s.f.) would reduce the permissible build-out construction by 39,099 s.f. to a new limit of 221,564 s.f.
    - Subject to an audit of space utilization; the proposed transfer of land may even put the current building project into violation of zoning and the terms of its permitted Site Plan

In light of; the multiple considerations of project time-line, strategic site flexibility considerations, protecting maximum site build-out, and avoiding placing the project into violation of zoning; it is recommended that the Building Committee implement the payment of \$132,247.36.

The preferred option for Town Meeting action on Article 20 is “Referral of the subject matter of Article 20 to the Kennedy Middle School Building Committee”.