

# Melendy Pond Evaluation Committee Final Report



12/21/2017

Town of Brookline, NH

Produced with the assistance of the Nashua Regional Planning Commission



## Executive Summary

Melendy Pond is a treasure in the Town of Brookline. In 1950, the Town decided to lease lots surrounding the Pond to provide municipal revenue to the Town and space for public recreation. However, due to low lease rates, increasing costs, and stated desires by some members of the community to return the property surrounding the pond to public recreational use, the Town formed several study committees to determine whether it should remain in the leaseholding business. Per a 2002 Town vote, leases on Melendy Pond lots cannot be renewed beyond 2020, and all will expire by 2032 if there is no policy change. Today, 24 leased lots exist around the Pond. This report was produced by the Melendy Pond Evaluation Committee (MPEC) to evaluate and recommend future alternatives for the property to determine the best solution for The Town of Brookline, its residents, and the leaseholders.

The 2017 MPEC was chartered by the Selectboard in May 2017 and was comprised of nine members representing a cross-section of the community. The committee met a total of seven times. Included in this report are an overview of the situation, an evaluation of different scenarios, and case studies of similar situations. A survey was distributed to current leaseholders, whose results showed that the majority of leaseholders desire to buy out their individual lot and own the land outright or extend their leases.

After months of careful consideration, the MPEC put forth several measures to recommend to the Selectboard and potential next steps. There was consensus that there are opportunities to improve active recreation amenities on the Pond more so than in its current state. The votes of the committee are as follows:

	Motion	Vote
1.	The Town should not pursue Options 4-7, which involve the selling of Town land. The committee believes Melendy Pond is an asset that the Town should maintain ownership over.	For (7): Tad Putney, Randy Haight, Brenda Hooper, Tom Humphreys, Tom Solon, Keith Wallin, Eric DiVirgilio Against (1): Kevin Visnaskas
2.	Melendy Pond is an underutilized Town amenity and that there are opportunities to better develop active recreation amenities for Town residents.	For (8): Kevin Visnaskas, Brenda Hooper, Randy Haight, Tad Putney, Keith Wallin, Tom Humphreys, Tom Solon, Eric DiVirgilio Against (0):
3.	The Selectboard should propose a warrant article that would extend some leases. If so, any future warrant articles regarding lease extensions should include language that leases be renewed at market rates and would comply to best extent with NH Department of Environmental Services Subsurface requirements.	For (5): Kevin Visnaskas, Brenda Hooper, Randy Haight, Tad Putney, Tom Humphreys Against (3): Keith Wallin, Tom Solon, Eric DiVirgilio
4.	The Town should respect the direction of previous Town votes and let the leases expire and the Selectboard and Finance Committee should plan for future demolitions/deconstructions of existing structures through the appropriate funding mechanism.	For (5): Eric DiVirgilio, Tom Solon, Tom Humphreys, Keith Wallin, Randy Haight Against (3): Brenda Hooper, Kevin Visnaskas, Tad Putney
5.	As leases expire, a three phase committee should be formed in 2020, 2025, and 2030 that would focus on site planning and land use visioning. The charter of the proposed committees should be crafted specifically to focus on developing appropriate active recreation amenities that fit within a long-term comprehensive plan.	For (6): Randy Haight, Tad Putney, Keith Wallin, Tom Humphreys, Tom Solon, Eric DiVirgilio Against (1): Brenda Hooper Abstention (1): Kevin Visnaskas
6.	The Selectboard should budget as needed for ongoing demolition purposes and future site planning.	For (6): Randy Haight, Tad Putney, Keith Wallin, Tom Humphreys, Tom Solon, Eric DiVirgilio Against (1): Kevin Visnaskas Abstention (1): Brenda Hooper
7.	If leases are extended, a committee should be formed that would focus on site planning and land use visioning. The charter of the proposed committee should be crafted specifically to focus on developing appropriate active recreation amenities that fit within a long-term comprehensive plan.	For (7): Kevin Visnaskas, Brenda Hooper, Randy Haight, Tad Putney, Keith Wallin, Eric, Tom Humphreys Against (1): Tom Solon

## Overview of Estimated Costs and Revenues

The following represents an overview of the estimated costs and potential revenues associated with the different alternatives evaluated in this report. An explanation for how some of these figures were calculated is in the Evaluation section. These figures are not all encompassing, and some figures are more abstract depending on the details of the project. The intent of this chart is not to serve as an absolute cost/benefit analysis but a guideline of the major costs and potential benefits of each project from a financial perspective, which is why many estimates include a range.

### Estimated Costs and Potential Revenue for Viable Melendy Pond Alternatives

Option 1 - Stay the Course and Let the Leases Expire			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Demolition for all structures	\$240,000-\$360,000	Remaining Total Rent to 2032	\$49,285
		Remaining Total Tax Revenue from 2017 to 2032 (based on 2017 tax rate)	Declining from \$27,635 in 2017 to \$0 in 2032, for an estimated total for the remaining 15 years of \$140,000-150,000
Option 2 - Turn the Expired Leased Lots into Active Recreation Land			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Demolition for all structures	\$240,000-\$360,000	Remaining Total Rent to 2032	\$49,285
Site Planning and Analysis	\$0-\$50,000+	Remaining Total Tax Revenue from 2017 to 2032 (based on 2017 tax rate)	Declining from \$27,635 in 2017 to \$0 in 2032, for an estimated total for the remaining 15 years of \$140,000-150,000
Recreation Development	\$0-\$20,000+	Tax Revenue starting in 2032	\$0
Annual Maintenance	\$15,000	Annual User Fees	\$0-\$15,000+
Employees (Unstaffed – Staffed on annual basis)	\$0-\$12,000+		
Option 3a - Extend the Leases at current rates (\$75-\$1,250/year)			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Melendy Pond Authority Annual Expenses	\$12,140	Estimated Annual Tax Revenue (based on 2016 tax rate)	\$87,339
		Annual Total Rent	\$5,600
Option 3b - Extend the Leases at 2016 market (\$2,500 - \$5,000/year) as they expire			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Melendy Pond Authority Annual Expenses	\$12,140	Estimated Annual Tax Revenue (based on 2016 tax rate)	\$79,778
		Total Rent in 2020	\$15,315 - \$25,315
		Total Rent in 2025	\$38,225 - \$73,225
		Total Rent in 2030	\$52,675 - \$102,675
		Total Rent in 2035	\$60,000 - \$120,000

## Introduction

### Melendy Pond Background

Melendy Pond is an 18 acre waterbody located roughly four miles north of Brookline center along Route 13. Melendy Pond is situated within 285 acres of conservation land and surrounded by 24 structures on land leased by different individuals for seasonal recreation including a boating, snowmobiling, swimming, and fishing.

A Warrant Article from 1950 established the rules of construction for initial structures with policies that continue to this day, including the establishment of the Melendy Pond Authority to administer the land leases and maintain the land. Today, there are 24 remaining leases that expire between 2018 and 2032. The Town owns the land and charges annual lease payments (ranging from \$75-\$1,250 per year). The leaseholders own the structures and pay taxes on the assessed value of the buildings.

The Melendy Pond structures are intended for seasonal usage, and as such, leaseholders must show proof of a primary residence elsewhere and be vacated from the Melendy Pond at least ten days throughout the year. Over the past 67 years, the leaseholders have invested financial and sweat equity into these structures, some of which have been passed down through families.

Leases typically had a 20 year term with a potential 20 year renewal period prior to the first study committee in 1999/2000. That committee recommended the Town get out of the landlord business – a consistent recommendation through each of the subsequent study committees that looked at whether to sell off the land or seek another alternative. Per a 2002 Town warrant article, the leases on the Melendy lots are not allowed to be extended past 2020 or their lease expiration date, whichever is later.

There have been 16 renewals since 2002, which were transfers between lessees before the end of the term, not extended beyond the existing term. The Town assessed values of the structures have been diminishing because the Town is not renewing the leases. In 2016, the Melendy Pond leased properties generated \$25,283 in tax revenue to the Town.

**Melendy Pond Tax Revenue Decline, 2008 -2016**

2008	2009	2010	2011	2012	2013	2014	2015	2016
\$80,952	\$66,420	\$66,420	\$45,506	\$46,356	\$30,017	\$31,175	\$28,141	\$25,283

The Town and the Melendy Pond Authority have both faced issues of declining revenue due to low rental fees and increased expenditures (for milfoil control, demolition, and legal fees). Leaseholders have also felt uncertainty regarding the status of their buildings, and have little incentive to continue to invest in them. The 2017 study committee was charged with evaluating alternatives to the current situation to see what options may benefit the Town, Brookline residents, and the leaseholders.



## Melendy Pond and Surrounding Conservation Land



Source: NRPC

## Melendy Pond Evaluation Committee

The Brookline Selectboard established the 2017/2018 Melendy Pond Evaluation Committee (MPEC) to evaluate future alternatives for the property, including estimated costs and revenue for the Town. The MPEC consists of nine voting members appointed by the Selectboard. All MPEC members are Brookline residents and include the following:

- Selectboard: Tom Humphreys
- Melendy Pond Authority: Randy Haight, Chair of MPEC
- Melendy Pond Association: Kevin Visnaskas
- Planning Board: Richard Randlett
- Conservation Commission: Eric DiVirgilio
- At Large Residents: Brenda Hooper, Tom Solon, Keith Wallin, Vice Chair of MPEC
- Town Administrator: Tad Putney

The committee was assigned the following tasks:

- Elect a Chair, Vice-Chair and Secretary
- Conduct a full site walk
- Review this Charter and seek approval for any material changes to it from the Selectboard
- Review the work of prior Melendy Pond Study Committees
- Establish a timeline for the committee's work
- Identify alternatives for future use of the property, including timelines
- Develop a comprehensive list of pros and cons for each alternative
- Identify any legal questions/issues of importance and forward them to the Selectboard
- Provide an interim update to the Selectboard once alternatives and pros/cons are developed
- Develop estimated costs and/or revenue to the town (or Melendy Pond Authority) for each alternative
- Identify either recommended alternative or top two alternatives in presentation to the Selectboard
- Assist the Selectboard in developing a presentation and warrant article(s) for town meeting, if needed

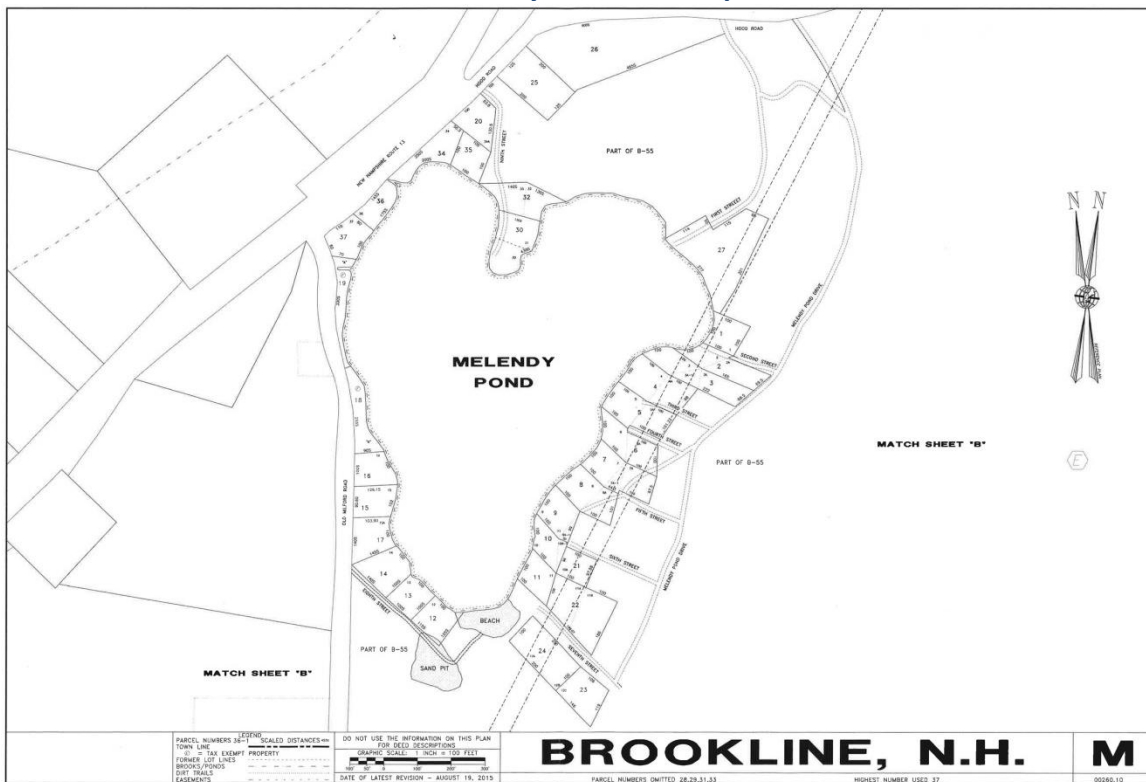
## Existing Conditions

Originally, there were 28 leased properties around Melendy Pond. Lot M-27 is the only lot with frontage on Melendy Pond that is privately owned as well as Lots M-25 and M-26. These parcels were privately owned before the 1950 Town Meeting and were never leased lots. Lot M-19 is an unbuildable lot, which has a 99 year lease extending to 2049. On the western side of the Pond, along Old Milford Rd is Lot M-18, which has a small beach intended for Town residents. It currently has a boat launch point as well. Another beach was established for leaseholders on the southern side of the pond between parcels M-11 and M-12.

Some lots can be accessed directly by Route 13 or Old Milford Rd, while the majority are accessed off of Hood Road by roads that only have summer maintenance by the Melendy Pond Authority. Winter snow removal is the responsibility of the leaseholders. Power lines used to run through the Melendy Pond Tract from Townsend, Ma. to Milford, NH on the eastern edge of the pond. A 60 foot easement still exists today, with the existing poles and wires used to service the 14 leaseholds still there, but the lines have been truncated to the south and north of the Melendy Pond Tract.

Most of the parcels are 100 feet by 100 feet, and approximately ¼ acre. The parcels are not separate lots of record, but are contained within Lot B-55. Most of the buildings have septic systems that predate when the State of New Hampshire began regulating septic. Approximately half of the buildings are serviced by private wells, while the remainder pump water directly in from the pond.

## Melendy Pond Tax Map



Source: NRPC and Town of Brookline

In 2002 Brookline voters directed the Melendy Pond Authority to not renew leasehold interests, subleases, or options beyond December 31, 2020. Since the 2002 vote, 16 leases have been transferred, with the soonest end date (Lot M-10) due to expire June 24, 2018.

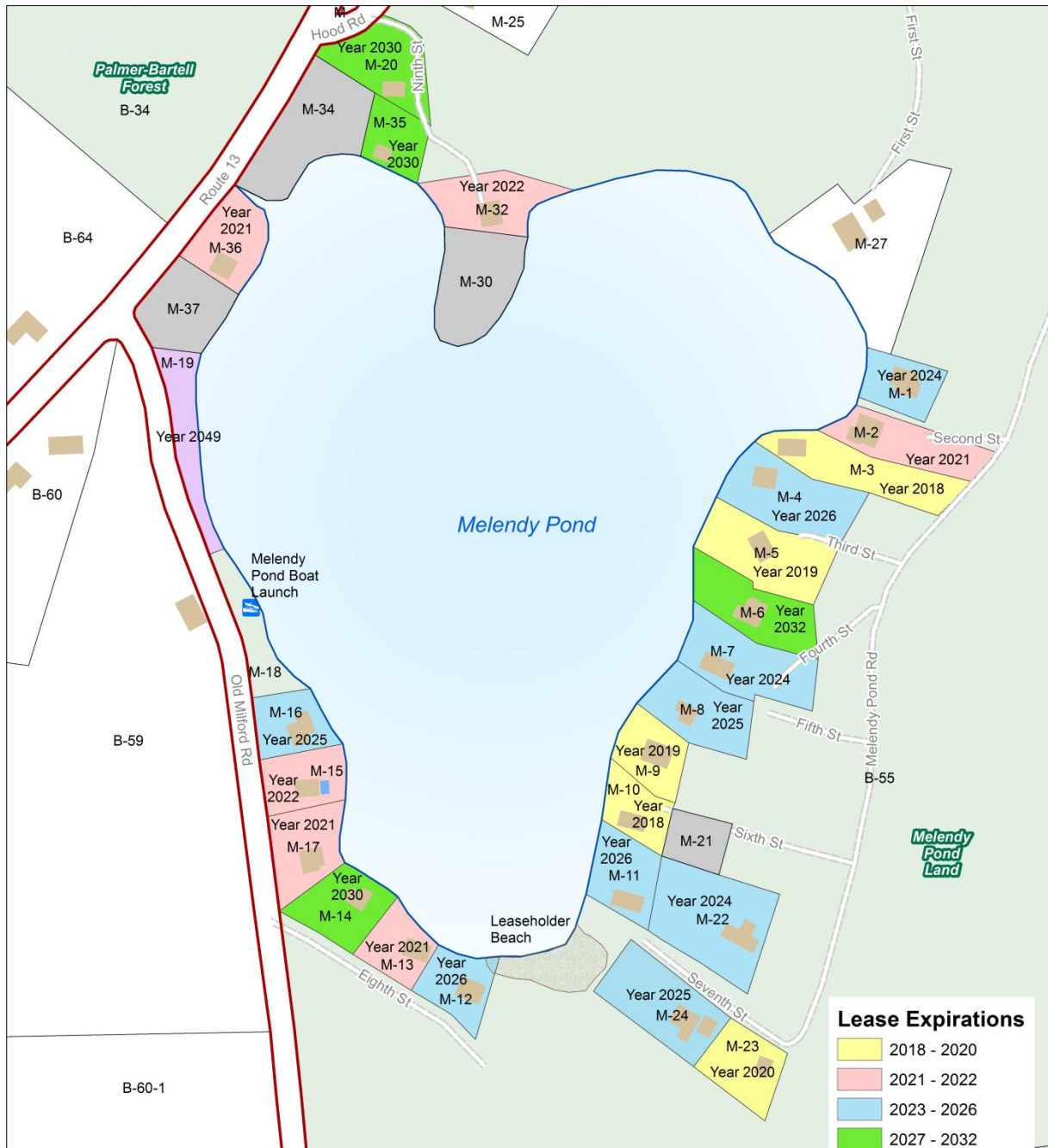
Leases expire as follows:

- Leases already expired and structure demolished: 4 units
- 2018-2020: 5 leases
- 2021-2022: 6 leases
- 2024-2026: 9 leases
- 2030-2032: 4 leases

These leases are mapped on the following page.



## Melendy Pond Lease Expiration Dates



Maps prepared by the Nashua Regional Planning Commission are for planning purposes only. NRPC uses data gathered from multiple sources at various scales of accuracy. No warranties, expressed or implied, are provided for the data herein its use, or its interpretation.



Data Sources: NRPC, Town of Brookline, Melendy Pond Authority

Source: NRPC, Town of Brookline, Melendy Pond Authority  
\*Lots colored white are privately owned

**Melendy Pond Structures and Shared Beach**  
**(M-1, M-2, M-3 & M-4)**



(Photos by Jay Kramarczyk)

## Melendy Pond Authority

The Melendy Pond Authority (MPA) was created in 1950 and is comprised of a six-member board. Five of the members are voting members elected at Town Meeting to overlapping six-year terms and one non-voting member represents the lessees.

The MPA administers the land around Melendy Pond, leases and maintenance. The 2002 Town Meeting directed the MPA to not execute any future leases or options to renew leases for the properties. The Authority's funds have declined due to the costs of building removals, legal fees, and milfoil treatment. At the beginning of 2004, the MPA had funds totaling \$64,167 however the funds were down to \$15,345 at the end of 2016. All funding for the Authority comes from leases. Originally, the Authority's funds were intended for road and property maintenance. Roads are not plowed in the winter by the Authority. Lease revenue from the properties was also used for maintaining water quality for swimming and beach areas.

## History of Previous Study Committees

There have been four study committees since 1999 that have met with the purpose of developing recommendations for the Selectboard and subsequent Town vote. Following is a summary of each committee's recommendations and results of actions taken.

### 1999/2000 Committee

- The consensus of the committee was that more input was needed from the Town residents in order to develop a solid plan for future action.
- Results of the 2000 Town Warrant included a vote to direct the Melendy Pond Authority to not extend any leasehold interests, or subleases, or options to renew without a provision to tax amenities associated with the land (**Art. 22**); a vote to continue a committee to study the legal status, propose rectifications on lease shortcomings, and establish long term goals for the MPA and the Town on the Melendy Pond properties (**Art. 23**).
- It was recommended by the study committee that a warrant article to approve a \$25,000 non-lapsing fund to purchase leasehold interests but this did not get placed on the warrant.

### 2000/2001 Committee

The study committee developed more specific recommendations based on the prior committee's initial work. These included:

- The Town get out of the leasehold business
- The MPA be dissolved and replaced with a separate advisory board to the Selectmen
- A non-lapsing warrant article for \$50,000 leasehold acquisition be established
- A subdivision plan be developed for disposal of the properties that provides for no through road along the east side of the Pond, a maximum of 11 residential lots be created meeting state regulations attempting to accommodate existing leasehold boundaries and structures
- The balance of leaseholds revert to the Town

- That monies held by the MPA be placed in a new fund for improvements at Melendy Pond
- Further research be done on some type of special zoning for the Melendy Pond properties.

Two articles resulted from these recommendations for the 2001 Warrant. **Article 14** received a **favorable** vote creating a two-year non-lapsing fund of \$50,000 for leasehold acquisition and **Article 15** received a **favorable** vote to extend the study committee for one more year.

#### 2001/2002 Committee

This study served as an extension of the 2000/2001 committee based on the 2001 Warrant article vote. Their findings included:

- That the MPA remain as the entity regulating and monitoring leasehold interests
- That the MPA provide a recommendation to the Selectmen for purchase of leases available for acquisition that are worthy of Town acquisition, and to hold a special town meeting if necessary to expend funds for acquisition, including use of the \$50,000 appropriated in 2001 due to lapse December 31, 2003
- That there be no further appropriations at this time
- That there be no further development plans at this time
- That any future sale of lots be limited to those on the easterly side of the Pond
- That the northerly side of the Pond be used for conservation purposes
- That the Old Milford Road/Route 13 sides of the Pond be used for recreation and conservation
- That any special zoning initiatives be deferred
- That the study committee be dissolved at this time and reestablished no later than 2006 to review issues

An article was put on the 2002 Warrant directing the MPA to not execute any further leasehold interests, subleases, or options beyond December 31, 2020; this became **Article 19** on the 2002 Warrant and received a **favorable** vote.

#### 2009/2010 Committee

The purpose of this committee was to study the lease terms of the Melendy Pond Authority. Notable findings in their report were that:

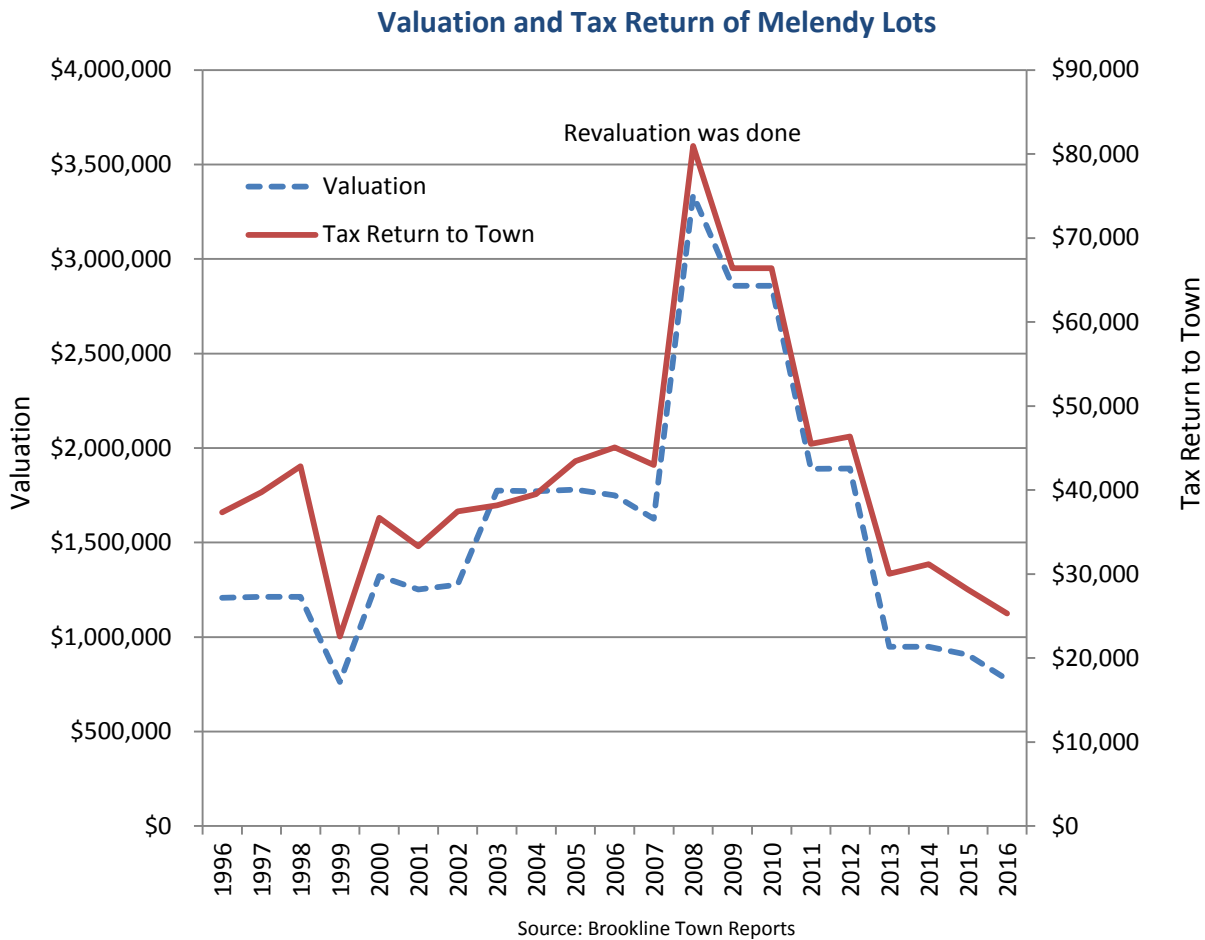
- The Town should adhere to previous study committee recommendations to get out of leasehold business.
- The land around Melendy Pond should not be developed due to the development costs and if reverted to conservation land the Town would not have to expend funds for additional conservation land.
- Based on an update of 2000 development plan, 60 acres were studied for development (of which 25 +/- acres were Melendy Pond and associated wetlands), there is potential for 10 developable subdivision lots necessitating a 2000 foot town road, upgrade of 1000 feet of Hood

Road, and a likely cistern for fire protection. Total development cost estimated at \$625k to \$650k.

A 2010 Petition Warrant Article to continue all leases, subleases or options on properties for 30 years with an option of an additional 30 years to present and future leaseholders failed, thus reaffirming the expiration of all leases.

### Tax Valuation and Revenue

The Board of Assessors has implemented a method of “linear depreciation” for property valuation (so that 3 years before final expiration of the lease the value is \$0). As the chart below shows, due to the lease expirations, the tax revenue from the Melendy Lots have been diminishing.





## Survey Responses - 2017

As part of this committee's efforts, a survey was distributed to the leaseholders seeking their preference on the possible options the committee was evaluating (see below). Response rates to the survey were high, with the majority desiring to buy out their individual lot and own the land outright. The second highest rated option was extending the leases as is, with some preferring to enter into a cooperative or condominium establishment with the other leaseholders. No respondents desired to let their leases expire or renew their leases at higher market-based rates. Overwhelmingly, leaseholders desire to retain their structure in some capacity.

## Issues and Opportunities

### Legal Status of "Lots"

Per the 1950 Town meeting vote, these "lots" on which the seasonal structures exist are not considered lots of record. Because of this, the Town still owns the underlying land as one parcel. Since the lots were never subdivided to create individual parcels, these lots are not considered grandfathered from current local zoning or state regulations, according to the NH Department of Environmental Services.

### State Level Issues

Since the Melendy Pond leased lots are not considered lots of records, any development that would involve transfer of land ownership away from the Town of Brookline would require state subdivision approval. The following are the major barriers to achieving this approval:

- **Comprehensive Shoreland Protection Act:** This act requires that all subdivided lots around designated bodies of water have a minimum 150 feet of frontage along the shoreline. The majority of the Melendy lots have only 100 feet of frontage.
- **State Subdivision and Septic Permits:** All subdivisions must be granted a state subdivision permit. In order to be granted this permit, there must be adequate area for septic. The acreage requirement for Melendy lots would be a minimum of 1.8 acres, but could be greater depending on soil quality and elevation. The majority of the Melendy lots are 0.25 acres. One possibility is to create a community septic system that services multiple structures.

### Local Zoning Issues

The Melendy lots are located in the Residence-Agriculture zoning district. Lots in this district must be 80,000 square feet or 1.8 acres (excluding wetlands areas) with 200 feet of frontage along roads. If the lots were subdivided either to individual owners or as a condominium, the roads that access these lots would need to be upgraded to Town standards as Brookline currently does not allow private roads. If any of the lots were to be developed as a condominium lot, a variance would be required for multiple dwelling units to take access from a private road system.

## Environmental Issues

The greatest environmental issue that Melendy Pond faces is non-native invasive species, especially variable milfoil. NH Department of Environmental Services completed a Long-Term Variable Milfoil Management and Control Plan for Melendy Pond in 2008. Frustration with the exotic plant growth has been expressed, citing fouling of their swim beaches, swim impairments, and concerns about the pond being choked with the invasive plant. The invasive plant infestation in this pond has increased over time, as Melendy Pond's characteristics are prime conditions for variable milfoil. In previous years, the Town has voted to raise and appropriate funds to control invasive species in both Lake Potanipo and Melendy Pond. Although water testing does not currently show water quality concerns, there is some concern that some septic systems may be substandard by current design requirements.

## Evaluation of Possible Solutions

### 1. Stay the course and let leases expire

Per the 2002 Town warrant decision, all the leases for the remaining 24 lots will expire by 2032. This option requires no further action by the Town vote.

Issues that this option has presented include leaseholder disinvestment in their properties and shared areas, such as the southern communal beach area. Furthermore, per state law, the Town of Brookline must wait two years and a day until they can take possession of the abandoned structures. Therefore, these structures will remain vacant, creating potential safety hazards. Demolition costs are estimated to be between \$10,000 to \$15,000 per structure (and can be expected to increase in 15 years when the final leases expire). Therefore, this will require the Town and/or the Melendy Pond Authority to spend between \$240,000 to \$360,000 on the demolition and removal of these structures. Although these costs will be spread over years since leases expire at different times. To address the various expiration dates, the 2000/2001 committee recommended the creation of a \$50,000 leaseholder acquisition fund that received a favorable Town meeting vote.

Habitat for Humanity of Greater Nashua is interested in reusing the Pond structures. Although other branches of Habitat for Humanity have well developed deconstruction programs, in which homes are reused for lumber, piping, and appliances, this would be the Greater Nashua's first endeavor into building donations. What materials can be donated from each structure will vary based on the individual conditions. Habitat for Humanity may only be able to reuse appliances within some cabins, with enough time and preparation, entire structures may be repurposed. If leaseholders have the option to donate their structure to Habitat for Humanity, they would qualify for a tax deduction, thus having an incentive to remove their structure and save the Town the cost of demolishing the structure. Alternately, an agreement with a deconstruction company could yield decreased costs to the town since the company could receive the tax benefits of the material donations.

Currently, the Melendy Pond Authority collects approximately \$5,600 annually in rent on the leased lots. If no leases are extended (including the ones that expire in 2018 and can be extended to 2020), the expected total revenue from 2017 to 2032 from rents is \$49,285. This, combined with the decreasing tax

revenue, will require Town funds to offset demolition costs. This option will allow Brookline residents to regain control of the Pond's shoreline, which can then be used for active or passive recreation purposes. This option is also beneficial to the Pond's environmental health given some structures may have substandard septic systems within close proximity to the pond.

### **Estimated Costs and Potential Revenue for Option 1**

<b>Option 1 - Stay the Course and Let the Leases Expire</b>			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Demolition for all structures	\$240,000-\$360,000	Remaining Total Rent to 2032	\$49,285
		Remaining Total Tax Revenue from 2017 to 2032 (based on 2017 tax rate)	\$140,000-\$150,000

## **2. Turn the expired leased lots into active recreation land**

This option is an outcome from the prior solution, in which the leases would expire and the Town would regain control of the majority of the shoreline. Active recreation is generally any recreational activity that requires significant infrastructure for the purposes of active sports or organized events. Potential active recreation developments at Melendy Pond camping facilities, a playground, picnic areas, concert venue, and wheelchair accessible recreation, and/or fishing docks.. Many of the same issues and benefits outlined in the previous section also apply to this option. However, a well-thought plan for active recreation at Melendy Pond will require subsequent coordination between Town committees and residents, and most likely approval at Town Meeting. One major issue is that the Town may have to wait until 2034 to begin implementing an active recreation site, due to the differing lease expiration dates that are scattered around the pond (unless leases were "bought out" early by the Town). In addition to demolition costs, there are different costs with recreation development that can be funded through the mechanisms established in RSA 35-B:2.

A similar model to The Lake Potanipo Grove could be used to help create revenue for the Town. Lake Potanipo is funded by membership fees only (no tax dollars). A similar fee structure could be used at Melendy Pond so Brookline residents – and perhaps only residents - can enjoy the boat launch, fish, or swim in the Pond.

Melendy Pond has certain advantages to develop active recreation amenities. It is situated along Route 13 and Old Milford Road to provide easy access and parking amenities. Melendy Pond is a central point of the 285 acres of conservation land that span northern Brookline, which could potentially lead to a wider trail network. Previous study committees have recommended developing the western and northern edge of the pond that abuts Route 13 and Old Milford Rd as a site for active recreation. Studies by conservation organizations have shown there is an economic benefit and that conservation land has inherent value, even if it does not produce tax revenue. This impact can come in the form of increased assessed value of surrounding lands, balancing residential development, and reduced spending on infrastructure.

### Estimated Costs and Potential Revenue for Option 2

Option 2 - Turn the Expired Leased Lots into Active Recreation Land			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Demolition for all structures	\$240,000-\$360,000	Remaining Total Rent to 2032	\$49,285
Site Planning and Analysis	\$0-\$50,000+	Remaining Total Tax Revenue from 2017 to 2032 (based on 2017 tax rate)	Declining from \$27,635 in 2017 to \$0 in 2032, for an estimated total for the remaining 15 years of \$140,000-150,000
Recreation Development	\$0-\$20,000+	Tax Revenue starting in 2032	\$0
Maintenance	\$14,163	Annual User Fees	\$0-\$16,160+
Employees (Unstaffed – Staffed)	\$0-\$11,586+		

### 3. Extend the leases

During MPEC evaluation, the Selectboard gave input that Town voters have made the decision not to extend leases, and that the committee should not consider extending leases as an alternative until the voters have approved such an option. A warrant article could be introduced at a future town meeting to allow for the extension of leases.

Prior to this guidance, MPEC had estimated that if the leases were extended, the Town would annually receive \$87,339 in tax revenue based on 2016 assessments and tax rates, an increase of \$60,000 over the current annual tax revenue. If the lease terms were amended so rents would be based on comparative market rate values, rents could be based on either a monthly rate, a percentage of the property valuation, or a ground leased based on valuation at a prime rate. A comparative survey found that all three versions would average an annual lease fee of \$5,000/unit. MPEC took a conservative approach to potential rent increases at market value and estimated revenue to the Town at a range of \$2,500-\$5,000 per unit. Two scenarios are shown in the table below to reflect revenue if leases were renewed at current rates or if they were renewed at higher rates as the leases expired.

### Estimated Costs and Potential Revenue for Option 3

Option 3a - Extend the Leases at current rates (\$75-\$1,250/year)			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Melendy Pond Authority Annual Expenses	\$12,140	Estimated Annual Tax Revenue (based on 2016 tax rate)	\$87,339
		Annual Total Rent	\$5,600
Option 3b - Extend the Leases at 2016 market (\$2,500 - \$5,000/year) as they expire			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Melendy Pond Authority Annual Expenses	\$12,140	Estimated Annual Tax Revenue (based on 2016 tax rate)	\$79,778
		Total Rent in 2020	\$15,315 - \$25,315
		Total Rent in 2025	\$38,225 - \$73,225
		Total Rent in 2030	\$52,675 - \$102,675
		Total Rent in 2035	\$60,000 - \$120,000

#### 4. Sell lots to individuals

The option most popular among the leaseholders was buying the land on their lease lot from the Town and owning their lots outright. This is not possible since these are not lots of record and if the lots were to be created, the lots would need to satisfy state and local subdivision requirements, including Shoreland and septic standards. One major issue for this solution is that only Lots M-30, M-32, and M-36 may have the required frontage along the pond (150 ft) to satisfy the State Shoreland requirement. Lots M-20, M-22, M-23, M-24 do not have waterfront frontage but would still have to comply with Town road frontage requirements. One possibility to meet this requirement would be for the Town to retain ownership of all the shoreline (at least 1 foot to the high tide line). Under this scenario, the Town would still be in the business of being a landlord, having the responsibility to regulate dock ownership and construction, and handle any issues that arise on the beach.

However, none of the individual lots meet the state acreage and septic requirements. In order to have enough acreage to satisfy state septic standards, the lots would have to extend deep into Lot B-55 (Melendy Conservation land). Much of the soil is rocky and wet, which would not count toward the acreage total. If the lots were somehow made to conform to state regulations, state subdivision approvals require a fee of \$300/lot. Furthermore, none of the lots meet local zoning requirements. Therefore, the lots would have to obtain variances or a special zone would have to be created to bring these lots into conformity.

Another issue with this option is the specifics of the land transaction process. First and foremost, it would require town meeting approval for this solution to be implemented. The leaseholders would need to be bought out of their lease before they could purchase the land, meaning the Town would need to estimate the remaining value of their lease and agree on a price for the leaseholder to sever their lease. There is also the issue of determining the fair market value for the land within each of the lots. When



Hampton, NH faced a similar issue (see case studies in the appendix), an outside commission was established by the state.

Since the individual lots would need to be enlarged to at least 1.8 acres (excluding wetlands), the Town would have to front the costs of surveying and any engineering work. The enlargement of these lots may impede on the leaseholder beach currently in existence and may reduce land area available to the town to create a public beach or recreation site. There would be fewer lots possible and an effort to construct lots that would encompass a subset of the current structures or combinations of structures would be complex and possibly contentious. This solution would also require the Town to purchase the services of a conveyance lawyer, which could range from \$5,000 to \$15,000 if no other legal obstacles arise.

The benefits of this option are that some leaseholders might retain use of their structures in which they have invested. It would also provide additional revenue to the Town since the leaseholders would then pay taxes on the land.

#### **Estimated Costs and Potential Revenue for Option 4**

<b>Option 4 - Sell the Lots to Individuals</b>			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Conveyance Lawyer	\$5,000-\$15,000	Lot Sales - Assessed Value of Waterfront Lots	\$90,000-\$100,000
Surveying/Engineering Work	\$30,000-\$50,000	Lot Sales - Assessed Value of Non-waterfront Lots	\$70,000-\$80,000
State Permit Subdivision Fees	\$7,200	Tax Revenue	Cannot be determined at this time

### **5. Sell land to cooperative form of ownership**

Instead of the Town selling the lots to individuals, there is also the possibility of individuals forming a cooperative agreement, who could then buy the land (if approved by town meeting). Under this scenario, the lots would be merged and considered one legal lot of record when subdivided; in essence, a condominium form of ownership. If the current leaseholders were to form such a cooperative agreement, they could still own their individual structures, while cooperatively owning the land.

This strategy would negate the issue of the Shoreland frontage requirement, since one merged lot would have more than 150ft of frontage. The leaseholders could also create a community well and septic system to satisfy state septic requirements. Estimated costs for the well and septic design (excluding construction and installation) could easily range from \$30,000 to \$50,000, which the Town would most likely have to pay upfront, unless the funds were provided in advance by the members of the cooperative. In addition to forming a homeowner's association, there would need to be an external licensed entity to run and maintain the water and septic system. The long-term maintenance of the community septic and well would be part of the leaseholders' association fees.

Even with a community septic system, the parcel(s) would have to be subdivided to include sufficient acreage to meet state septic requirements. Soil types around Melendy Pond would be the biggest barrier as there are many wetlands in the vicinity. The acreage requirement for condominium approval depends on number of bedrooms. Most likely, the area to place the septic system would require pumping due to the higher elevation of the land surrounding Melendy Pond. The Town would most likely have to front the costs for engineering, soil samples, and surveying, which would not be insignificant. Also, proposals for subdivisions which might at any time include more than 15 lots must be registered with, and approved by, the Consumer Protection and Antitrust Bureau of the NH Department of Justice (NHDOJ). A similar registration and review by the NHDOJ must occur when more than 10 condominium units are to be established or sold.

All of the leaseholders in the pre-defined area would need to agree to the process (which would include both site planning and the selling of the land), and there is the issue of the leases expiring in different years that adds another layer of complexity. It would also require Town approval by warrant article. Legal assistance would be needed to convey the land, estimated at between \$5,000 and \$15,000 barring no other legal issues.

It is unlikely that all of the Melendy lots could be included in one homeowner's association and still satisfy the state requirements. The collection of structures most likely to satisfy these requirements are those on the eastern portion of the Pond (lots M-1 to M-11 and M-22 to M-24). This collection of houses could be subdivided to include Melendy Pond Road, which could then be maintained as a private road via a variance from the Town of Brookline Zoning Board. Variances to allow the number of dwelling units on the lot would also be likely. The details of the land transfer process would need to be determined but the members of the homeowners association could be the current leaseholders or others as well.

Lots M-12 to M-16 on the western edge of the Pond potentially could meet the requirements to form a condominium association, but their proximity to Old Milford Road is a barrier to meeting the necessary acreage requirements. It is unlikely that a condominium association could be created out of the lots on northern side of the Pond (M-20, M-32, M-35, and M-26) since the available land area to meet state requirements is constrained by Route 13, Old Milford Rd, and other nearby lots of record.

This option would allow some, if not all, leaseholders to retain their structure and still have access to the Pond. This could provide additional tax revenue to the Town, which would be an increase from current tax revenue on the building alone. The Town would no longer be in the leaseholding business, but would incur significant initial costs to transition to this solution and would lose access to, and use of, any land sold to the cooperative.

### Estimated Costs and Potential Revenue for Option 5

Option 5 - Sell the Land to a Cooperative Form of Ownership			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Community Well Design	\$30,000-\$50,000	Assessed Value of Potential Unit	\$180,000
Surveying/Engineering Work	\$30,000-\$50,000	Tax Revenue	Cannot be determined at this time
Legal Assistance	\$5,000-\$15,000		
State Permit Subdivision Fee	\$300		

## 6. Sell land to a developer

Based on a 2009 update of 2000 development plan, 60 acres were studied for development (of which approximately 25 acres were Melendy Pond and associated wetlands), there is potential for 10 developable subdivision lots necessitating a 2000 foot town road and a likely cistern for fire protection. Total development cost estimated ranged from \$625,000 to \$650,000. Financial projections estimated that lots would have to sell for about \$200,000 each for the Town to break even from construction costs. The MPEC does not recommend this option due to the fiscal infeasibility.

### Estimated Costs and Potential Revenue for Option 6

Option 6 - Sell the Land to a Developer			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Development Costs	\$625,000-\$650,000	Lot Sales - Assessed Value of Waterfront Lots	\$90,000-\$100,000
Underground Utilities	\$500,000-\$3M per mile	Lot Sales - Assessed Value of Non-waterfront Lots	\$70,000-\$80,000
Student School Cost	\$10,000-\$14,000 per Student	Tax Revenue	Cannot be determined at this time

## 7. Hybrid scenarios

### Scenario #1: Merge lots together as leases expire to create fewer than 10 lots (see Options 1 and 4)

Leaseholders could attempt to buy out each other's leases and incur the demolition costs themselves. Alternatively, they could purchase abutting land from the Town as leases expire. This option would satisfy the acreage and shoreland frontage requirements to attain state approval, but still requires approval of town meeting for the land to be conveyed. However, the Town may still have to incur some demolition costs. This option favors those who have later lease expiration dates. Furthermore, the lots on the northern side of the pond may never satisfy the acreage requirement needed for state approval due to geographic constraints.

### Estimated Costs and Potential Revenue for Option 7, Scenario 1

Hybrid Scenario 1 - Merge the Lots Together as the Leases Expire to Create Less Than 10 Lots			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Demolitions	\$180,000-\$270,000	Lot Sales - Assessed Value of Waterfront Lots	\$90,000-\$100,000
State Permit Subdivision Fee	\$5,400	Lot Sales - Assessed Value of Non-waterfront Lots	\$70,000-\$80,000
		Tax Revenue	Cannot be determined at this time

### Scenario #2: Condominiumize some lots and convert remainder to active recreation land (see Options 2 and 5).

Under this option, the lots along the eastern side of the Pond could subdivide to form a cooperative agreement since these lots are in a better location to do so. This would require town meeting approval, a process of appraising and selling the land, going through the site planning, permit approval process, and the legal process of forming the homeowners association. The remaining leases on the lots on the western and northern edge would expire by 2032. Those expired lots could then be turned into a revenue generating active recreation space, or left alone, with access to Route 13 and Old Milford Rd.

### Estimated Costs and Potential Revenue for Option 7, Scenario 2

Hybrid Scenario 2 - Condominiumize Some Lots and Convert Remainder to Active Recreation Land			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Recreation Development	\$0-\$20,000+	User Fees	\$0-\$16,160+
Community Well Design	\$30,000-\$50,000	Lot Sale - Assessed Value of Potential Unit	\$180,000
Surveying/Engineering Work	\$30,000-\$50,000	Tax Revenue	Cannot be determined at this time
Legal Assistance	\$5,000-\$15,000		
State Permit Subdivision Fee	\$300-\$600		

### Scenario #3: Condominiumize some lots and have remaining lots merge together as leases expire (see Options 1, 4 and 5).

Under this option, the lots that could most easily subdivide to form a condominium along the eastern edge of the Pond would do so. This would require town meeting approval, a process of appraising and selling the land, going through the site planning, permit approval process, and the legal process of forming the homeowners association. The owners of the remaining leases on the lots on the western and northern edge of the Pond could try to buy out each other's leases, leaving leased tracts that could

attempt to subdivide to create one to two lots of records that would satisfy state requirements (which would also require town meeting approval).

### Estimated Costs and Potential Revenue for Option 7, Scenario 3

Hybrid Scenario 3 - Condominiumize Some Lots and Have Remaining Lots Merge Together as Leases Expire			
Estimated Costs		Estimated/Projected Revenue	
Item	Amount	Item	Amount
Demolitions	\$50,000 - \$75,000	Lot Sale - Assessed Value of Potential Condo Unit	\$180,000
Community Well Design	\$30,000-\$50,000	Lot Sales - Assessed Value of Waterfront Lots	\$90,000-\$100,000
Surveying/Engineering Work	\$30,000-\$50,000	Lot Sales - Assessed Value of Non-waterfront Lots	\$70,000-\$80,000
Legal Assistance	\$5,000-\$15,000	Tax Revenue	Cannot be determined at this time
State Permit Subdivision Fee	\$900 - \$1,500		



## Recommendations

Taking the preceding concerns and issues into consideration, the following considerations have been developed by the MPEC to address them. Each of the proposed considerations was voted on by the committee and is reflected below. Only affirmative votes (which are in bold), are the official recommendations of the MPEC.

	Motion	Vote
1.	The Town should not pursue Options 4-7, which involve the selling of Town land. The committee believes Melendy Pond is an asset that the Town should maintain ownership over.	<b>For (7): Tad Putney, Randy Haight, Brenda Hooper, Tom Humphreys, Tom Solon, Keith Wallin, Eric DiVirgilio</b> Against (1): Kevin Visnaskas
2.	Melendy Pond is an underutilized Town amenity and that there are opportunities to better develop active recreation amenities for Town residents.	<b>For (8): Kevin Visnaskas, Brenda Hooper, Randy Haight, Tad Putney, Keith Wallin, Tom Humphreys, Tom Solon, Eric DiVirgilio</b> Against (0):
3.	The Selectboard should propose a warrant article that would extend some leases. If so, any future warrant articles regarding lease extensions should include language that leases be renewed at market rates and would comply to best extent with NH Department of Environmental Services Subsurface requirements.	<b>For (5): Kevin Visnaskas, Brenda Hooper, Randy Haight, Tad Putney, Tom Humphreys</b> Against (3): Keith Wallin, Tom Solon, Eric DiVirgilio
4.	The Town should respect the direction of previous Town votes and let the leases expire and the Selectboard and Finance Committee should plan for future demolitions/deconstructions of existing structures through the appropriate funding mechanism.	<b>For (5): Eric DiVirgilio, Tom Solon, Tom Humphreys, Keith Wallin, Randy Haight</b> Against (3): Brenda Hooper, Kevin Visnaskas, Tad Putney
5.	As leases expire, a three phase committee should be formed in 2020, 2025, and 2030 that would focus on site planning and land use visioning. The charter of the proposed committees should be crafted specifically to focus on developing appropriate active recreation amenities that fit within a long-term comprehensive plan.	<b>For (6): Randy Haight, Tad Putney, Keith Wallin, Tom Humphreys, Tom Solon, Eric DiVirgilio</b> Against (1): Brenda Hooper Abstention (1): Kevin Visnaskas
6.	The Selectboard should budget as needed for ongoing demolition purposes and future site planning.	<b>For (6): Randy Haight, Tad Putney, Keith Wallin, Tom Humphreys, Tom Solon, Eric DiVirgilio</b> Against (1): Kevin Visnaskas Abstention (1): Brenda Hooper
7.	If leases are extended, a committee should be formed that would focus on site planning and land use visioning. The charter of the proposed committee should be crafted specifically to focus on developing appropriate active recreation amenities that fit within a long-term comprehensive plan.	<b>For (7): Kevin Visnaskas, Brenda Hooper, Randy Haight, Tad Putney, Keith Wallin, Eric, Tom Humphreys</b> Against (1): Tom Solon

## Appendix 1: Case Studies

### Hampton, NH

Hampton has a long history with leased lots. Between 1911 and 1914, Hampton leased Town-owned land on nearly 400 lots in the Plaice Cove neighborhood, where cottages were erected. In the 1960s, the Town felt they were losing potential revenue because of the low leases and considered selling the land. A majority of the tenants wants to purchase their leased land, but thought prices were too high and they may have trouble obtaining mortgages. After several study committees, the Town of Hampton decided to sell the leased lots in the 1970s. Prices were determined at the 1968 valuation. By 1974, the Town voted to prohibit further sale of any lots since the Selectboard decided their authority to sell was discretionary.

By the 1980s, a Town committee recommended the sale of land but called for the creation of a real estate commission to outline a system for appraisals. Lots were sold at 30% of fair market value rates to recognize generations of leaseholders and recent leaseholders. The Town financed lots at 12% interest for 20 years max, with an option to continue renting for leaseholders who didn't want to buy. Selectmen began signing sales agreements that gave lessees up to 3 years to purchase land, which allowed NH State Legislature time create a real estate trust fund. Members of the Real Estate commission were nominated by the Selectmen and appointed by the Superior Court. All of the lots were approximately 0.25 acres and considered lots of record when they were originally leased in the early 1900s. The lots were all on a sewer system, so no issues related to septic arose. As of today, only 33 leased lots remain, with the majority having been sold to their tenants.<sup>1</sup>

### NH State Campgrounds

The State of New Hampshire's Department of Natural and Cultural Resources' Division of Forests and Lands owns and maintains two state parks that allow individual tenants. These are the Nash Stream Forest and Umbagog State Parks. At these parks, the state owns the land but has leased lots where individuals own their buildings. Individuals are responsible for the taxes on the structure in addition to annual leases. The annual leases are renewed every five years with an adjustment for inflation. The State maintains the right of first refusal on any lease renewals or transfers. The annual lease amounts at Nash Stream Forest range from \$528 to \$1094 each year. The lease amounts in Umbagog State Parks range from \$1,375 to \$2,405. Most of the camps have pit toilets but some have grandfathered systems and use carried in water. Both properties are managed as open to the public for recreation.

In Lake Francis, the state owns leased lots that have structures on them (private cottages). Due to environmental, financial, and recreational reasons, the state felt it should no longer be the leaseholder for these cottages. There was a 35 year phase out program for the leases, followed by a buyout plan to ensure individuals got sufficient value for their cottages. However, as the time period for the lease expirations came closer, property values declined and properties became derelict. Due to many complaints and reactions from the leaseholders, the State Legislature reversed its decision and has resumed leasing the lots.

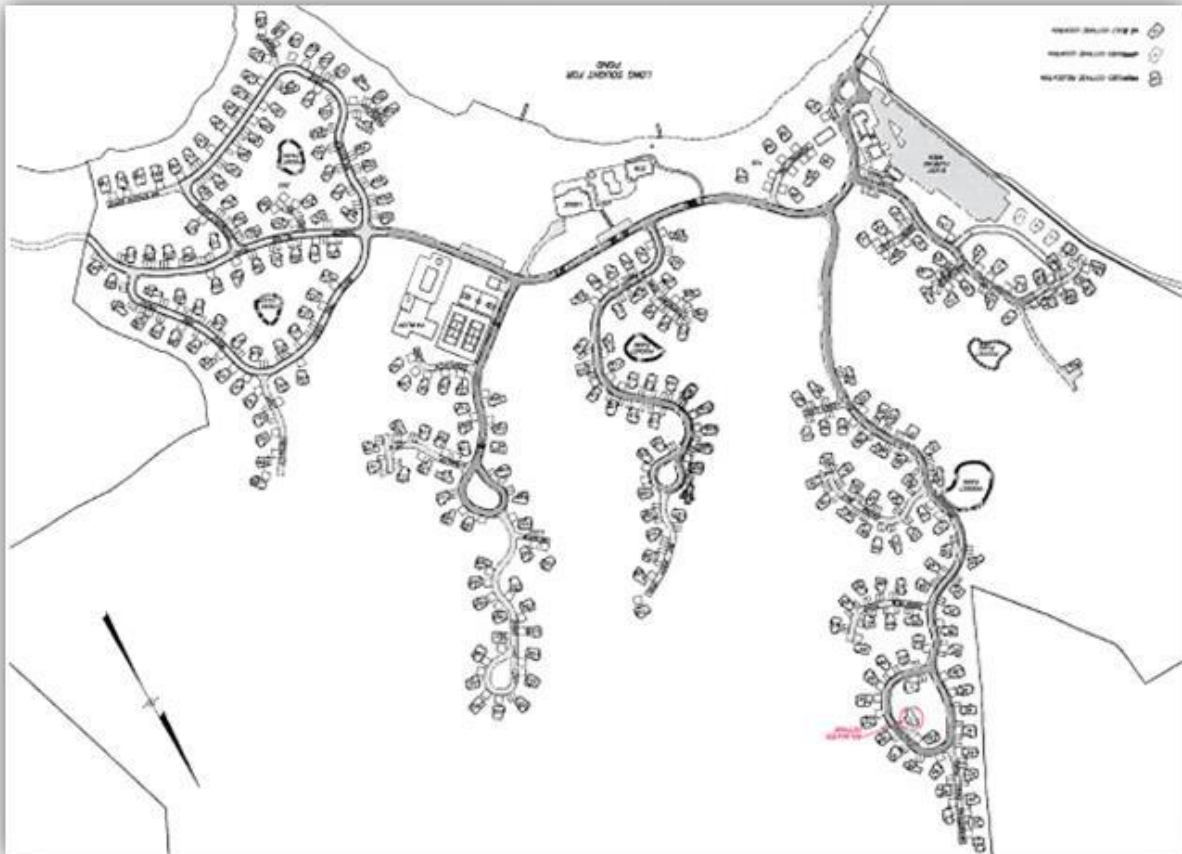
---

<sup>1</sup> [http://www.hampton.lib.nh.us/hampton/history/randall/chap8/randall8\\_1.htm](http://www.hampton.lib.nh.us/hampton/history/randall/chap8/randall8_1.htm)

## Westford, MA

Wyman's Beach Summer Village is a condo association located in Westford, Massachusetts. The site is seasonal and is only open during the summer months. The site is located in Westford's Resident A district. Previously, the land was functioning as a seasonal campground with a public beach. A local developer purchased the land and converted it to a private seasonal cottage community and sold off the cottages to individuals. The developer was granted use, parking lot, growth management, and multiple structure variances as well as special permits to alter a nonconforming use and nonconforming structures. Because the development is seasonal, owners are not considered to be residents.

### Site Plan for Wyman's Beach



Source: Town of Westford, MA