

**Town of Concord
Finance Committee
Meeting Minutes – March 9, 2020**

Present: Dean Banfield, Greg Guarriello, Mary Hartman, John Hickling, Dee Ortner, Christine Reynolds, Wade Rubinstein, Phil Swain and Andrea Zall

Absent: Peter Fischelis, Richard Jamison, Karle Packard, Parashar Patel, Brian Taylor and Thomas Tarpey

Others Present: About 25 Public Officials and Members of the Public, some as noted below

Meeting Opened

Mr. Banfield called the public hearing to order in the Hearing Room at the Town House at 7:00 pm. He announced that the meeting was being televised and recorded by MMN. He welcomed members of the Finance Committee (FC), Select Board (SB) and Personnel Board (PB).

Public Hearing on 2020 Annual Town Meeting Warrant

Article 3—Meeting Procedure

Mr. Banfield explained that Article 3 is a procedure that requires every motion to appropriate funds to identify the specific amount and source of funding. This Article has been proposed and passed since 1992. *There were no questions or comments.*

Articles 4—Ratify Personnel Board Classification Actions

Personnel Board Chair Ellen Quackenbush explained that Article 4 asks the Town to ratify temporary personnel actions taken by the Town Manager and Personnel Board since the 2019 Annual Town Meeting. Such changes are enumerated in the Warrant. *There were no questions or comments.*

Article 5—Classification & Compensation Plan for Regular-Status Positions

Ms. Quackenbush explained that Article 5 presents for approval the Classification & Compensation Plan for non-unionized, non-school, regular-status positions in the Town, effective July 1, 2020. The plan makes 2.5% increases to the minimum, mid-point, and maximum of the ranges in the schedules. The job titles and ranges are subject to town meeting approval. She noted that a fair and competitive plan is an important factor in attracting and retaining competent employees. In response to a question from Mr. Swain, Human Resources Director Amy Foley indicated that Concord aims to be in the 85th percentile of comparable positions in benchmark communities. In response to a question from Ms. Ortner, Ms. Foley indicated that there were a large number of adjustments in salary ranges to positions in Telecommunications; to positions in the Light Plant; and to Information Technology positions. Adjustments were made to make these positions more competitive.

Article 6—Personnel Bylaw Amendment

Ms. Quackenbush explained that Article 6 proposes to delete the current Personnel Bylaw and replace it with a new bylaw that entrusts the Town Manager with responsibility for adopting rules and regulations for a lawful, equitable and efficient system for employee rights, compensation, benefits, hiring practices, and record keeping. The PB will change from five to three members appointed by the SB. The role of the PB would be advisory to the Town Manager, and will function only at the request of the Town Manager. Ms. Quackenbush explained that the proposal centralizes personnel responsibility to the Town Manager and HR Director.

Resident Leslie Koplow, a former Town employee, noted that minutes of PB meetings have not been posted for several years. She questioned how town meeting could be in a position to evaluate the merits of the proposal without being privy to the discussion leading up to the recommendation, and without the benefit of knowing what actions had been taken by the PB in recent years. Resident Mark Howell, a former Town employee, suggested that the proposal was significant, premature and very vaguely drafted with no specifics, and with no discussion among the public or employees about possible impacts. He suggested that the SB not move the article at town meeting, fill the vacancy on the PB, update the Committee's charge (which has not been updated since 1985), and ask the proposal to go back to the PB for further study with the goal of proposing a new charge and an appropriate bylaw replacement that reflects the Town's values and goals. Resident Anita Tekle, a former Town employee, questioned the transparency of two of the slides which indicated that the current Personnel Bylaw applies to one-quarter of Town and Concord Public School regular employees. Ms. Tekle noted that the bylaw doesn't apply to school employees at all, and that the bylaw applies to roughly 60% of Town employees, who are predominantly non-union. The latter point is what makes Concord fairly unique when compared with benchmark communities. She also questioned how the grievance procedure would work in the absence of the PB. Ms. Quackenbush responded that in reality the PB approves proposals that are brought to it by the HR Director and Town Manager, and she did not recall any recent grievance hearings. She noted that there is an existing Personnel Policy & Procedure (PPP #25) regarding grievances. Ms. Foley indicated that it was unclear whether PPP #25 would still be in effect, but suggested that it could be amended regardless of the status of the bylaw. She emphasized that the Town Manager has final authority over all hiring and firing, and the PB's role is only advisory in a grievance procedure.

Article 7—Proposed Increase to COLA Base for Retirees

Retirement Board Chair Peter Fulton explained that Concord retirees receive an annual COLA adjustment only on the first \$12,000 of their pension. This limit has been in effect since 1997. Article 7 proposes to change the base on which the increase is calculated to \$14,000. He explained that there are 318 retirees, and the average retirement benefit is \$28,000 annually, with many employees receiving a much lower amount. Most retirees receive either reduced or no social security benefits upon retirement, and contributions are made to the retirement system by employees during their employment (9%+ by employees hired after 7/1/1996). Mr. Fulton shared a comparison of Concord's "base" amount and other retirement systems, which ranged from \$12,000 to \$18,000. Mr. Hickling asked for the COLA adjustment of other retirement systems, noting that there could be a lower COLA adjustment on a higher base. For an accurate comparison, he requested that those figures be provided. Retirement System Administrator Linda Boucher noted that the Public Employee Retirement Administration Commission establishes the maximum COLA adjustment each year (up to 3%). Concord has provided a 3% increase for the past 13 years. This amounts to an annual retirement adjustment of \$360 per employee. Article 7 will increase that annual amount by \$60 per employee. The estimated budget impact is \$350,000 through 2030.

Follow-Up: Retirement Board to provide the COLA adjustments being proposed by other Retirement systems, distributed by the amount of the base.

Article 8—Use of Free Cash

Finance Director Kerry Lafleur explained that Article 8 proposes to transfer \$1 million from free cash to reduce the FY21 tax levy. The Town has a policy to maintain a level of free cash that is 5-10% of the general fund budget. The \$1 million would be used to provide tax relief. The current balance in free cash is \$11,839,956 (10.08% of the FY21 budget). She noted that if all the current town meeting proposals are approved, then the free cash balance is estimated to be \$8,139,956

(6.93% of the FY21 budget). In response to a question from Mr. Hickling, Ms. Lafleur noted that the transfer has been at the \$1 million level since FY17.

Article 9—FY20 Budget Adjustment

Town Manager Stephen Crane explained that Article 9 proposes to transfer \$225,000 from the Reserve Fund (Item 32) to Legal Services (Item 2) to cover the cost of additional legal expenses incurred during FY20. Mr. Crane noted that the Reserve Fund had been used to cover the cost of Estabrook Road litigation in the past, but that the FC denied use of the fund on January 23. The FC's reason for denial was that the costs were neither unforeseen nor extraordinary. Mr. Crane reviewed historical amounts budgeted and spent for Concord legal expenses, including the Estabrook Road matter. In response to a question, he noted that the cost of Estabrook Road litigation was approximately \$100,000 from FY16-18. An appropriation of \$100,000 was made at the 2018 fall Special Town Meeting (STM), to supplement the legal services budget. The total cost of Estabrook Road litigation to date is approximately \$900,000. Mr. Swain noted that as an attorney, he provides his clients with a cost estimate prior to performing the work. He inquired as to the Town's process for approving legal spending and questioned how the costs could have risen so high without sufficient appropriation. He suggested that a procedure be in place for the Town to have an estimate of costs in advance. Mr. Crane explained that the bulk of the costs were incurred prior to his arrival. He reminded the group that the purpose of the request is not to discuss legal strategy.

Resident Neil Rasmussen, one of the defendants in the litigation, suggested that the Town go into this request with eyes wide open. He felt that the ultimate costs to the Town would be closer to \$3-4 million. He reminded participants that at the fall 2018 STM, voters were told that the cost to complete the litigation would be approximately \$150,000. The Town has now spent five times that amount, with no resolution in sight. He noted that the defendants expect to be reimbursed for their legal costs in the event they prevail in the lawsuit. He felt that Concord taxpayers deserve to know the likelihood of success prior to appropriating any further funds. Mr. Swain suggested that both sides seek a settlement. Resident Brooks Read noted that the Town has not provided any documents to support its case, which he felt suggests that such documents don't exist. Mr. Crane noted that the FY21 proposed Town legal expense budget of \$344,000 did not reflect the latest legal cost estimate for the Estabrook Road lawsuit. In response to a question from Ms. Quackenbush, Mr. Swain noted that the plaintiff is not normally responsible for paying the defendant's legal fees in the event the Town loses.

Resident Matt Johnson asked what the effect would be if Article 9 does not pass, to which Mr. Crane responded that a year-end interdepartmental transfer would be done (using June 30 balances from other line items). Mr. Banfield noted that such transfers require approval of both the SB and FC. He also noted that the Reserve Fund could be used as well, should a balance remain at the end of the year. In response to a question from Mr. Johnson as to criteria/evidence of "unforeseen expense," Mr. Banfield noted that this is the third consecutive year that the Town Manager has requested a Reserve Fund transfer for the legal services budget. In the spring of 2019, the FC made it clear to then Town Manager Chris Whelan that any future requests would not be welcomed. Mr. Banfield also noted that the January 23 denial was a unanimous vote of the FC. The FC did not take kindly to considering ongoing litigation as being "unforeseen." Mr. Swain noted that it is a challenge for lawyers to predict litigation costs, but they learn to live within the budget that is given. Resident William Becklean noted his surprise to see that this request is coming back to the Town, and questioned the benefit of such expenditure to the Town. In response to a question, Mr. Crane indicated that he did not know whether late fees or interest charges would be made if Town Counsel's invoice is paid late. Ms. Lafleur noted that under state law, the Town is not allowed to close the budget year

with a deficit. Any unpaid bills after June 30 would be funded within the FY21 levy limit. She noted that last year, sufficient funds were available for year-end transfers. One way or another, the Town will meet its financial obligations.

Resident Henry Dane commented that any year-end transfer would require approval of both the FC and SB, and this would require negotiations with the Town’s legal counsel. Among the topics to be resolved, in his opinion, are the questions of where the Town wants to go with the lawsuit, and whether special counsel should be sought. He suggested that the Town Manager and SB negotiate with Town Counsel.

Article 10—Town Budget

Town Manager Stephen Crane introduced the new format of the budget book; the consolidation of some budget line items to reflect functional oversight and to improve flexibility; changes made to the Fire Department command structure; an increase to the legal services budget request; two new positions (Dispatcher and Land Manager); and a net decrease in FTEs due to attritions. He noted a 14% increase in FTEs between FY15 and FY21, which comes to an additional 52 FTEs during that time, including staff additions in the Enterprise and Revolving accounts. He noted that the growth is largely due to service expansions, an increased demand for services, and emerging needs (archivist, tourism, sustainability). In response to a question, he noted that there is no link between an increase in population and the increased staff, since Concord’s population is relatively stable.

Mr. Crane identified \$350,000 in budget savings, mostly due to public safety retirements and the hiring of a new Town Manager, all at lower salaries. The proposed budget is 3.04% above FY20. *There were no comments or questions.*

Article 11—Capital Improvement and Debt Plan

Deputy Town Manager Kate Hodges explained that the format of Article 11 is different from the past, with the separation of capital projects paid with cash (\$1,787,195), and capital projects paid with borrowed funds (\$4,350,000), all of which is funded within the levy limit. She highlighted the capital projects paid through borrowing, as follows:

Department	Project	Amount
Parks & Playgrounds	Emerson Playground Improvements	\$200,000
Parks & Playgrounds	Gerow Improvements	\$600,000
Parks & Playgrounds	Rideout Park Improvements	\$195,000
Parks & Playgrounds	Warner’s Pond Dredging	\$500,000
Parks & Playgrounds	White Pond Improvements	\$600,000
Fire Department	Ambulance #2 Replacement (2011)	\$275,000
Fire Department	Ladder #1 Refurbishment (2012)	\$250,000
Public Works Administration	Road & Parking Lot Reconstruction	\$1,730,000
Borrowed Funds Total		\$4,350,000

Ms. Hodges noted that the Town Manager’s capital budget includes \$900,000 for CPS projects, which are included in Article 26. In response to a question from Ms. Hartman about last year’s \$500,000 appropriation for Emerson Field, Ms. Hodges indicated that last year’s appropriation has not yet been spent, but is for field improvements. The FY21 request is for playground improvements. In response to a question, Ms. Hodges indicated that there was an appropriation of \$600,000 in FY20 for Gerow improvements, and a capital budget request for FY21 for Gerow for \$600,000, as well as a CPA request of \$500,000. With these funds, she anticipates that all Phase 1 projects would be completed—stormwater management, parking, composting toilet facility, plantings, and

some pathways. She anticipates the total long-term cost for Gerow, including acquisition, would be about \$5 million. There are no plans yet developed for Phase 2.

In response to a question, Ms. Hodges indicated that appropriations for White Pond improvements were \$850,000 last year, added to this year's request for \$600,000. Based on initial cost estimates in the Master Plan for White Pond, she anticipates that the funds will be applied towards improvements to the parking lot, stairs, restoration of the boat launch access driveway, slope restoration, and some mitigation of rain wash. Ms. Hartman inquired as to the process used to determine "what people want?" Ms. Hodges responded that at Gerow five public hearings were held, and a town-wide survey was conducted, with 3,200 responses. She is confident that residents have responded adequately. Ms. Ortner encouraged FC members to review pages 48-49 of the budget book to better understand the five-year timeframe for capital projects and page 51 for the debt plan by project. Ms. Ortner urged the Town to provide more details to residents so that they will know what is happening and when. Mr. Banfield inquired whether sidewalk improvements are included in the road and parking lot reconstruction allocation above. Mr. Crane responded that the Town has a separate sidewalk budget, which he taps into and in conjunction with road improvements. Town Engineer Steve Dookran noted that sidewalk improvements are scheduled for Laws Brook Road, Sudbury Road (Thoreau St. to Main St.) and Hubbard Street, all in conjunction with road improvements. Mr. Banfield urged that a sidewalk be constructed from Walden Street or Thoreau St. to Walden Pond, since lots of walkers are currently using that walking route without the safety benefit of sidewalks. Mr. Dookran responded that this is a sidewalk planned for the future.

Mr. Banfield asked why the Natural Resources Department (NR) is managing the dredging of Warner's Pond. Ms. Hodges responded that this project is being managed by NR, but the funding is included in the Parks & Playgrounds capital budget. Ms. Reynolds inquired as to the long-term cost of Warner's Pond dredging. Ms. Hodges indicated that the cost estimate is \$2-2.5 million (based on a previous study), with the project beginning in FY21. She noted that the condition of Warner's Pond is affected by the output from Route 2, which runs under the Gerow property. Ms. Reynolds asked about the long-term costs of White Pond, and whether the \$1.55 million to date is sufficient. Ms. Hodges responded that the Town is still figuring out what projects to do, with mixed reviews coming in about the toilet facility that was installed last year. She indicated that "if this is all the community wants for White Pond, then this will do for a while." Ms. Reynolds asked how the "wish list" is evaluated against the cost. Ms. Hodges responded that such an exercise has been completed at Gerow, but not yet for White Pond. In response to a question about the White Pond toilet facility, Recreation Director Ryan Kane indicated that overall the bathroom is satisfactory, and will suffice with the current level of attendance. This may change if attendance increases.

Resident Matt Johnson noted that while each of the proposed Parks & Playgrounds projects has been put through a user feedback process, most have a similar recreational profile. He suggested that there is too much being proposed in a single year, and asked if projects could be timed differently, and in phases. He noted that the State is also making amenity improvements to Walden Pond, and questioned the wisdom of so many projects being done all at once. Ms. Hodges responded that most of the projects are being managed by different project managers (the Recreation Director, the Facilities Director, and herself), so she feels that the work is manageable. She noted that the White Pond property was gifted to the Town. She estimates that the Gerow improvements will be completed by December 2020. Ms. Hodges indicated that an ADA path to White Pond is planned, to make it easier for young families, toddlers, seniors, to traverse the pathway from the parking lot to the pond.

Article 12—Authorize Expenditure of Revolving Funds

Ms. Lafleur explained that Article 12 authorizes the annual spending limits for each of the Town's Revolving Funds. *There were no questions or comments.*

Article 14—Appropriate Funds for Affordable Housing Development

Select Board Member Linda Escobedo explained that Article 14 asks for a \$500,000 transfer from free cash for affordable housing. She noted that a similar appropriation was made last year. She anticipates that such a request will be made until such time as other housing revenue is generated, most likely from enabling legislation that is pending before the state legislature. *There were no questions or comments.*

Article 51—Unpaid Bills

No motion is anticipated.

Article 52—Debt Rescission

No motion is anticipated.

Select Board Chair Mike Lawson reported that he has consulted with Moderator Carmin Reiss and the Board of Health, and a decision has been made to not use electronic vote counters at Town Meeting this year. Ms. Reiss has developed a protocol in the event that the coronavirus gets out of control. This protocol will be posted on the Town's web site.

Adjournment

The public hearing was closed and the meeting adjourned at 9:37 pm.

Respectfully submitted,

Anita S. Tekle
Recording Secretary

Documents Used or Referenced at Meeting:

- 2020 Annual Town Meeting Warrant
- FY21 Town of Concord Proposed Budget—Financial Summary