

CONCORD SELECT BOARD
MINUTES
FEBRUARY 26, 2019 PUBLIC HEARING

APPROVED: APRIL 1, 2019

Pursuant to notice duly filed with the Town Clerk, a Public Hearing of the Concord Select Board was held at 7 p.m. in the Public Hearing Room at the Town House. Present were Thomas McKean, Chair; Alice Kaufman, and Linda Escobedo. Mr. McKean called the meeting to order at 7 p.m. and announced that it was being broadcast on Minuteman Media Network.

Presentations can be viewed online at concordma.gov/2346/Public-Hearings

ARTICLE #28 PETITION: ADOPT A MORATORIUM OF SYNTHETIC TURF ON TOWN PROPERTY

Presenter: Beverly Bryant, 175 Conant Street

Ms. Bryant explained that this moratorium is an extension of the three year moratorium put in place at the 2016 Town Meeting. Town land includes, but is not limited to, that of the Concord Public Schools. The moratorium does not include private land nor the Concord-Carlisle Regional High School which is under joint jurisdiction with Carlisle. She discussed the origin of crumb rubber pellets and said crumb rubber contains known carcinogens and endocrine disrupters.

Ms. Bryant discussed health concerns for children. Concerns have been raised about the health effects of synthetic turf, especially in young children. Children are more susceptible to developmental hormones and carcinogens. Children are repeatedly exposed to crumb rubber in synthetic turf. Crumb rubber is carried home in hair, shoes, and clothing. In response to the growing health concerns around synthetic turf nationwide, four members of Congress from the Committee on Energy and Commerce and two US senators wrote letters of enquiry regarding the safety of synthetic turf to the Environmental Protection Agency (EPA). The Consumer Product Safety Commission (CPSC) has not rated synthetic turf or crumb rubber as a child-safe product. The EPA has stopped promoting crumb rubber in synthetic turf fields. The EPA with the Consumer Product Safety Commission and the Centers for Disease Control and Prevention/Agency for Toxic substances and Disease Registry, together launched the Federal Research Action Plan to study crumb rubber and its effect on human health. This report has still not been released.

She discussed injuries related to crumb rubber. Recent research has shown a 16% increase in leg and foot injuries amongst National Football League Athletes playing on synthetic turf compared to natural grass. Synthetic turf surfaces do not release cleats as readily as natural turf. Improvements in grass varieties have led to grasses that can stand up to hard use and drought conditions and can be managed organically without pesticides and herbicides. Organic field management costs 25% less than conventional field management and half the overall cost of synthetic turf.

She discussed the sustainability principles. The construction of synthetic turf fields works against the sustainability principles adopted by the town in 2011 by: replacing an organic ecosystem with toxic chemicals that bleed into the environment; preventing these fields from capturing carbon from the atmosphere or retaining water from heavy rain events. A Canadian study calculated that 1861 trees would be required to offset the carbon footprint of one synthetic turf field for the duration of its use.

In conclusion, the Article is asking the Town to adopt another three year moratorium to: allow the ongoing research on synthetic turf to be completed; protect our children from exposure to untested and toxic chemicals; and give the Town time to better assess the environmental impact of synthetic turf fields in a time of changing climate.

There were no public comments.

ARTICLE #1 CHOOSE TOWN OFFICERS

Mr. McKean advised that there will not be a presentation for Article #1.

CONCORD SELECT BOARD
MINUTES
FEBRUARY 26, 2019 PUBLIC HEARING

APPROVED: APRIL 1, 2019

ARTICLE #2 HEAR REPORTS

Mr. McKean advised that there will not be a presentation for Article #2.

ARTICLE #19 GENERAL BYLAW AMENDMENT – TOWN MEETING NOTICE

Presenter: Chris Whelan, Town Manager

Town Manager Whelan stated that the purpose of Article #19 was to determine whether the Town will vote to amend the Town Meeting Notice Bylaw by deleting the phrase “in at least one public location in each precinct in Concord” and inserting in place thereof the phrase: “and electronically on the Town’s website” from the first sentence of that Bylaw. This article provides for a more effective form of notice to the general public as well as many residents by requiring electronic posting of the warrant on the Town’s website. The Warrant will continue to be mailed to every household to ensure that all residents have access to the Warrant. Town Manager Whelan briefly reviewed the Warrant posting locations and noted that this Bylaw was first established in 1905 and amended a few decades ago.

There were no public comments.

ARTICLE #20 GENERAL BYLAW AMENDMENT – RECORDS MANAGEMENT

Presenter: Chris Whelan, Town Manager

Town Manager Whelan stated that the purpose of Article #19 was to determine whether the Town will vote to amend the Records Management Bylaw by deleting the second paragraph and inserting in place thereof the following: “The Town Manager shall appoint a Municipal Archivist who shall report to the Town Clerk and shall assist the Town Clerk in managing the town’s records and archives, including complying with the Public Records Law and all other applicable laws.” Concord’s Records Management Bylaw was adopted under Article # in 1990 and the new Massachusetts Public Records Law took effect January 1, 2017. As a result, Concord’s Records Management Bylaw should be updated to conform to the new State law.

There were no public comments.

ARTICLE #21 ACCEPTANCE OF M.G.L. CH.54, §16A – ELECTION VACANCY APPOINTMENTS

Presenter: Kaari Tari, Town Clerk

Town Clerk Tari stated that Article #21 was to determine whether the Town will vote to accept the provisions of Massachusetts General Laws Ch.54, §16A authorizing the town clerk to fill vacant election officer positions if an election officer is unexpectedly absent at the time the polls open for voting. She reviewed the provisions of §16A which stated that In any city or town which accepts this section, if the warden, clerk or inspector or the deputy of any such officer, if any, is not present at the opening of the polls, the city or town clerk may appoint a person to fill such vacancy who shall be an enrolled voter of the same political party as the absent officer, if any competent person enrolled in such party is present and willing to serve.

Ms. Tari said the adoption of this article would allow the Town Clerk to appoint substitute election officers for Election Day due to last minute cancellations in order to keep elections running smoothly. The purpose of the Article is to ensure full staffing at the polls on election days. She reviewed the amount of staff support needed for elections.

The Town Clerk reviewed the motives behind this article. Last minute cancellations by Election Officers due to illness or family emergency can lead to staffing shortages on Election Day. Staffing

CONCORD SELECT BOARD
MINUTES
FEBRUARY 26, 2019 PUBLIC HEARING

APPROVED: APRIL 1, 2019

shortages result in longer lines at the polls and more stress on the Election Officers. Select Board meetings do not always coincide with elections to allow for last minute appointments.

Town Clerk Tari discussed the limitations of Article #21. This article is limited to substituting for election officer vacancies on Election Day and only for that day. The substitute election officer must be of the same party as the absent officer. This only applies if a vacancy arises and the next Select Board meeting is scheduled after the election.

Town Clerk Tari summarized the benefits of Article #21. This article would allow the Town Clerk to recruit and appoint substitute election officers right up to the beginning of someone's shift on Election Day. The Select Board remains the appointing authority for Election Officers at all other times.

There were no public comments.

ARTICLE #23 APPROPRIATE FUNDS – AFFORDABLE HOUSING DEVELOPMENT

Presenter: Todd Benjamin, Affordable Housing Funding Committee Chair

Mr. Benjamin noted that at the 2017 Town Meeting, voters approved the creation of a committee that shall be charged with the responsibility of studying and determining cost-effective means by which the Town may fund the continuing expansion of its inventory of affordable housing. The committee would come to be known as the Affordable Housing Funding Committee. He reviewed key points that the AHFC worked on which included: 1) A wide perspective that is fair and does not rely on one group; 2) Future of our town requires change but the benefits are worth it; 3) Residents have more control now for affordable homes to best fit the town; and 4) This is the beginning of the process.

Mr. Benjamin reviewed the economic benefits of affordable homes. Affordable homes help employers attract and keep workers for town, retail, health, education, and restaurant opportunities. Residents of affordable homes generate earnings for local businesses and revenue for local governments. Affordable homes increases revenue & decreases traffic: essential employees' long daily commutes increase congestion. Congested roads reduce profitability of local businesses by increasing costs and shrinking the area from which to draw customers and workers. He noted that of Concord's 277 town employees, only 9% live in Concord.

Mr. Benjamin noted that this is temporary strategy and said that allocations must be voted on at each future Town Meeting. Funds for this strategy already exist. This strategy is only to begin the practice of funding affordable homes while the other articles are going through the process. Once the other strategies are in place, this strategy can be kept, reduced, or discontinued. He noted that Articles 24, 25, and 26 were process driven (Step 1. Approve articles to authorize Town to talk to the State; Step 2. State decides whether or not to allow Town's request; and Step 3. Residents vote at a future Town Meeting to determine details of final articles.)

The purpose of Article #23 is to determine whether the Town will vote to raise and appropriate, or transfer from available funds the sum of \$500,000, or any other sum, for the purpose of developing affordable housing within the Town, said funds to be expended under the direction of the Town Manager on such terms and conditions as the Select Board may determine, or take any other action relative thereto. The Select Board anticipates annually requesting an appropriation of Free Cash to support affordable housing until such time as other housing revenues are generated should Articles 24, 25 and 26 be approved and the necessary special legislation enacted.

Mr. McKean asked for public comments.

CONCORD SELECT BOARD
MINUTES
FEBRUARY 26, 2019 PUBLIC HEARING

APPROVED: APRIL 1, 2019

Lee Ann Kay, 262 Virginia Road, asked what percentage of homes in Concord were affordable and how much land was available to be developed for affordable housing. Mr. Benjamin said that 10.52% of Concord's housing inventory was considered as affordable housing. Mr. Benjamin noted that there were several options for future developments, both large and small in scale.

Dean Banfield, 74 Walden Terrace, asked for clarification regarding the process of engaging in discussions with the State. Mr. Benjamin and Mr. Banfield discussed different ways that Articles could change on the floor at Town Meeting and how those changes could have a ripple effect. Mr. Banfield noted that the process for engaging with the State should be clarified.

Janet Miller, 1647 Main Street, asked if the various factors that contribute to the costs of living were considered as part of the Committee's work. Mr. Benjamin confirmed and said that they considered several factors.

Tom Tarpey, 169 Heath's Bridge Road, asked how soon after an affirmative vote at Town Meeting would a mechanism be in place that could start the funding process. Mr. Benjamin said that it would depend on how quick the State legislature could act. Mr. McKean agreed with Mr. Benjamin. At the request of Mr. Tarpey, Mr. McKean confirmed that future appropriations of Free Cash would require approval at future Town Meetings on annually a basis.

Richard Wenzel, 125 Hillcrest Road, inquired about the economic benefits discussed by Mr. Benjamin. Mr. Wenzel and Mr. Benjamin discussed how affordable housing could impact property taxes. Mr. Wenzel asked if other Towns are taking similar measures to fund affordable housing. Mr. Benjamin reviewed recent and proposed developments in adjacent towns. Mr. Wenzel said that he had concerns with allocating funds annually because priorities change over time.

Charlie Blair, 26 Florio Drive, disclosed that he was a realtor in Concord. Mr. Blair and Mr. Benjamin discussed when a home-rule petition would come into play in the process. He noted that Concord Mews was located close to the Quarry North project in Sudbury. Mr. Blair mentioned the Housing Production Plan developed by the Planning Division had measures in it that could provide assistance to affordable housing. He discussed population projections and noted that concepts within our Zoning Bylaw could be utilized as well.

Tom Matthews, 135 Elsinore Street, disclosed that he was a realtor in Concord and expressed gratitude for the AHFC's work to address funding affordable housing.

Mark White, 233 Independence Road, asked Mr. Benjamin to further explain how this would increase revenue. Mr. Benjamin and Mr. White debated the economic benefits listed on Slide #8. Mr. White noted that the school system could face additional strains and noted the Concord Mews as an example.

ARTICLE #24 AUTHORIZATION TO ACCEPT M.G.L. CH. 44 § 55C – MUNICIPAL AFFORDABLE HOUSING TRUST FUND

Presenter: Todd Benjamin, Affordable Housing Funding Committee Chair

Mr. Benjamin discussed the details of Article #24 which sought to determine whether the Town will vote to accept Massachusetts General Laws c. 44, § 55C, to authorize the creation of a Municipal Affordable Housing Trust Fund, or take any other action relative thereto. Article #24 would create a Concord Affordable Housing Trust that would consist of a Board of trustees appointed by the Select Board tasked to accept & receive real property, personal property or money. Mr. Benjamin said this will create a town entity that will manage revenues generated for affordable housing if Articles 25 and

CONCORD SELECT BOARD
MINUTES
FEBRUARY 26, 2019 PUBLIC HEARING

APPROVED: APRIL 1, 2019

26 are approved and the necessary special legislation is enacted. He noted that over 70 communities have established similar trust funds.

ARTICLE #25 AUTHORIZE SPECIAL LEGISLATION – REAL ESTATE TRANSFER TAX FOR AFFORDABLE HOUSING

Presenter: Todd Benjamin, Affordable Housing Funding Committee Chair

Mr. Benjamin discussed the details of Article #25 which sought to determine whether the Town will authorize the Select Board to petition the General Court for special legislation substantially in the form below that that would impose a real estate transfer fee to be used by the Town for the purposes of acquiring, creating, preserving, rehabilitating, restoring and supporting affordable housing in the Town, or take any other action relative thereto. Mr. Benjamin noted that this imposed by 35 states when property changes hands; Massachusetts has one of the lowest transfer fees in New England. He said the fee would be paid by buyers and was recommended by the Concord Long Range Plan. Mr. Benjamin said that \$3,000,000 could be generated annually. Mr. Benjamin reviewed other Towns with supplementary transfer fees and discussed the Somerville Transfer Fee Analysis conducted by RKG Associates, Inc. which found that a 1% transfer fee would not substantially change the behavior of buyers and sellers or impact the volume of transactions.

Tom Matthews, 135 Elsinore Street, discussed issues with matching a home rule petition tax with the rules put forth by the State. He noted that several of the communities identified by Mr. Benjamin were dominated by houses that were not the primary residences of its owners. He said that 91% of Concord's homes were the primary residence. He questioned whether this proposal was fair to first time home buyers and discussed his experience working with first time buyers.

Elise Woodward, 379 Garfield Road, mentioned that the presentation of the four articles could be clarified further to indicate whether they all were dependent on Article 23 being approved at Town Meeting and suggested that all outcomes be presented so the public is aware of how they are (and aren't) interconnected.

Rick Loughlin, 83 Chestnut Street, inquired if commercial property would be included. Mr. McKean noted that the language of the Article specified residential property. Mr. Loughlin noted that the AHFC report considered various types of property and noted that some calculations would need to be adjusted. Mr. Loughlin briefly discussed impacts to property values. He discussed his experience with the real estate industry. He supported affordable housing but did not think that the transfer tax was the right way to support affordable housing.

John Kay, 262 Virginia Road, asked how much funding from the Community Preservation Act goes towards affordable housing. Mr. Benjamin said that the amount varies but he believed it to be at least 10%. Mr. Benjamin said the level of funding from the CPA was not enough to sufficiently address the topic. Mr. Kay noted that the amount generated from a transfer tax could be quite substantial for the individual.

Henry Dane, 58 Everett Street, noted that he had significant legal experience with various different elements of affordable housing. He said that he wasn't opposed to affordable housing but wondered if this was the best way to tackle the issue. He mentioned that this would make housing for the people that live in Concord less affordable by making new housing for people not living in Concord more affordable. He said that the real estate transfer fee was not the way to address this topic.

Greg Higgins, 51 Cottage Lane, discussed the definition of affordable with Mr. Benjamin. Mr. Higgins said that it appeared that this targeted buyers and sellers as opposed to including all residents of the

CONCORD SELECT BOARD
MINUTES
FEBRUARY 26, 2019 PUBLIC HEARING

APPROVED: APRIL 1, 2019

Town. Mr. Higgins opined that this was a narrow scope and excluded the majority of the Town's population. Mr. Benjamin and Mr. Higgins discussed how CPA funds could be utilized.

ARTICLE #26 AUTHORIZE SPECIAL LEGISLATION – BUILDING PERMIT FEE SURCHARGE FOR AFFORDABLE HOUSING

Presenter: Todd Benjamin, Affordable Housing Funding Committee Chair

Mr. Benjamin discussed the details of Article #26 which sought to determine whether the Town will authorize the Select Board to petition the General Court for special legislation substantially in the form below that permits the Town to enact a bylaw charging a building permit surcharge to be used by the Town for the purposes of acquiring, creating, preserving, rehabilitating, restoring and supporting affordable housing in the Town, or take any other action relative thereto: "An act establishing a building permit surcharge in the Town of Concord." Mr. Benjamin said this was based on Charles Phillips' concept from the 2017 Town Meeting. Assessed per \$1,000 of construction value, like Town's existing building permit fee structure (\$12 per \$1000 of construction value). The surcharge varies from \$9 to \$20 per \$1,000 of construction value. It is a housing related fee borne primarily by large builders. He said this is a progressive approach. Larger projects pay more than smaller projects

Tom Matthews, 135 Elsinore Street, discussed how new growth impacts the Town's finances. He questioned why the Town would put in measures that could potentially limit new growth. He noted that Articles 25 and 26 were very aggressive. He urged that additional consideration be given to the subject.

Elise Woodward, 379 Garfield Road, reiterated her earlier suggestion for the AHFC to connect the dots between the four housing articles.

Charlie Blair, 27 Florio Drive, agreed with earlier comments that this would target a small percent of the population. He noted that someone could be stuck with a real estate transfer tax at the purchase and then hit with a building permit fee if they wanted to renovate.

Lee Ann Kay, 262 Virginia Road, urged for other options to be considered before the Town goes forward on this as currently presented. She expressed doubt with the costs presented by the AHFC as being truly affordable when the estimates were around \$500,000 per unit.

Elisabeth Elden, 347 Old Bedford Road, noted that she was a former member of the AHFC. She suggested that Mr. Benjamin remind Town Meeting that the AHFC is doing what they specifically tasked the Committee to do. She briefly discussed 40B developments.

Greg Higgins, 51 Cottage Lane, discussed concerns with the proposed permitting fee.

ARTICLE #27 AUTHORIZE TRANSFER OF A PORTION OF THE PROPERTY AT 369 COMMONWEALTH AVENUE FOR AFFORDABLE HOUSING

Presenter: Kate Hodges, Deputy Town Manager

Deputy Town Manager Kate Hodges discussed the details of Article #27 which sought to determine whether the Town will vote to authorize the Select Board to transfer the fee, and/or other property interests in, on, over, across, under and along a portion of the property at 37B Commonwealth Avenue, shown on Assessors' Map 8D as Parcel #2158, which property contains 20,000 square feet, more or less, and is also shown as Parcel "A-2" on the plan of land prepared by Greenman Peterson, Inc. dated January 11, 2019, on file with the Town Clerk, to the Concord Housing Authority or any other affordable housing development entity, for the sole purpose of creating not more than one unit

CONCORD SELECT BOARD
MINUTES
FEBRUARY 26, 2019 PUBLIC HEARING

APPROVED: APRIL 1, 2019

of affordable housing, under such terms and conditions as the Select Board may determine, or take any other action relative thereto. The Town voted under Article 25 of the 2018 Annual Town Meeting to purchase 7 acres of land at 37B Commonwealth Avenue with frontage on Warner's Pond "...for municipal purposes, including active recreation and affordable housing...". The Concord Housing Authority has offered to construct a unit of public housing, abutting an existing unit of CHA housing at 365 Commonwealth Avenue. The remainder of the property, which is adjacent to the Bruce Freeman Rail Trail, will be developed as a public park. This article proposes that the portion of the property with frontage on Commonwealth Avenue be transferred to the Concord Housing Authority for the development of one unit of affordable housing. Ms. Hodges reviewed the history of the parcel. She summarized different tasks that would need to be accomplished.

ADJOURN

At 8:45 p.m. upon a motion duly made and seconded the Board UNANIMOUSLY

VOTED: to adjourn the meeting for the evening.

Respectfully submitted,

Linda Escobedo, Clerk Pro Tem