

CONCORD SELECT BOARD
MINUTES
APRIL 1, 2019

APPROVED: MAY 6, 2019

Pursuant to notice duly filed with the Town Clerk, a meeting of the Concord Select Board was held at 6:15 p.m. in the Select Board Room at the Town House. Present were Thomas McKean, Chair; Michael Lawson, Clerk; Alice Kaufman, Jane Hotchkiss and Linda Escobedo. Also in attendance was Christopher Whelan, Town Manager. Mr. McKean called the meeting to order at 6:15 p.m. and announced that it was being broadcast on Minuteman Media Network.

EXECUTIVE SESSION FOR THE PURPOSES OF DISCUSSING LITIGATION (ESTABROOK ROAD) AND REVIEW DRAFT EXECUTIVE SESSION MINUTES

On a motion duly made and seconded, it was:

VOTED: in a roll call to enter into Executive Session to discuss strategy with respect to the pending litigation regarding Estabrook Road, Town of Concord v. Rasmussen et al, pending on land court; and to review draft Executive Session minutes. In the Executive Session, the Board will discuss with Counsel, strategy in the pending litigation. An open meeting may have a detrimental effect on the litigation position of the Town.

Tom McKean	Aye
Michael Lawson	Aye
Jane Hotchkiss	Aye
Alice Kaufman	Aye
Linda Escobedo	Aye

Mr. McKean stated that at the conclusion of the executive session, the Board will reconvene in Open Session.

RECONVENE IN OPEN SESSION

At 7 p.m., the Board reconvened in Open Session.

VOTE TO APPROVE SETTLEMENT AGREEMENT WITH HARVARD UNIVERSITY CONCERNING ESTABROOK ROAD LITIGATION

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: That the Board authorize the Town Manager to enter into settlement agreement with Harvard College in the form and on the terms and conditions as set forth in the document titled Settlement Agreement Between the Town of Concord and President and Fellows of Harvard College for Limited Public Access to a Portion of Estabrook Trail, and in accordance therewith to dismiss without prejudice the claims against Harvard College brought by the Town in litigation titled Town of Concord v. Neil E. Rasmussen, et al., Case No. 17-MISC-000605-HPS, which is currently pending in the Land Court Department of the Massachusetts Trial Court.

Mr. McKean stated we are pleased to announce that the Town is entering into a Settlement Agreement with Harvard University that allows the public to continue to make low-impact recreational use of the portion of Estabrook Trail that crosses Harvard-owned property in Estabrook Woods. The Settlement Agreement and the rules for use of the Trail through Harvard's land will be posted on the Town's website shortly. We want to emphasize the importance of public compliance with the rules that Harvard and the Town have agreed upon for use of the Trail, and the importance of our collective stewardship of Estabrook Woods, and we thank Harvard for working cooperatively with the Town to achieve those goals.

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CONSENT AGENDA

- Town Accountant Warrants
- One Day Special Licenses
 - Concord Museum 6/16 3pm-5pm 2 Lexington Road Malt Only
 - 51 Walden Inc. 4/6 7pm-11pm 54 Walden Street Wine & Malt
- Minutes – 2/26 Public Hearing, 3/4, 3/11
- Proclamations – National Library Week April 7-17

Upon a motion duly made and seconded the Board UNANIMOUSLY
VOTED: To approve the consent agenda.

APPROVE EXECUTIVE SESSION MINUTES

None.

TOWN MANAGER’S REPORT

- The compost site and paint shed on Walden Street will be open on April 6.
- The semi-annual Drop off - Swap Off event is scheduled for May 4.
- The Visitors Center is scheduled to open on April 12.
- Minuteman Media Network has hired a new station manager.
- Deputy Town Manager Kate Hodges is working on easement with MassDOT regarding crossing the Bruce Freeman Rail Trail to access the Gerow land.
- The Town Manager has signed an offer to purchase the Emerson land on Walden Street.
- A second public forum for White Pond will be scheduled in the near future.
- Friday is the deadline for RFP 396 - Lease for Installation of Telecommunication Facilities.
- Cambridge Turnpike will be closed for approximately 6 months starting April 17.
- Public Works will hold a Cut-Through Traffic Study public workshop on May 1.
- Natural Resources has submitted an environmental notification form for dredging at Warner’s Pond.

CHAIR’S REPORT

- The 2019 Annual Town Meeting begins next week on April 8.
- The Annual Town Election was held last week. The Board will welcome two new members at the conclusion of Town Meeting.

ANNUAL REQUEST TO FIRE TOWN CANNONS AT PUBLIC CEREMONIES – CIB

Concord Independent Battery (CIB) members James Finigan, Phillip Kenney, and Peter Myette appeared before the Board. Mr. McKean reviewed the materials submitted with the request. Mr. Finigan discussed the background of the request and discussed the different events.

The CIB sought permission to fire the Town Cannons at the following annual Town events: Meriam’s Corner Exercise (April 6), Patriots’ Day (April 15), Dawn Salute (April 19), Memorial Day (May 27), and Veterans’ Date (November 11).

Upon a Motion duly made and seconded, the Board UNANIMOUSLY
VOTED: to approve the Concord Independent Battery request to fire the Town Cannon at Town Celebrations on April 6, April 15, April 19, May 27, and November 11.

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REQUEST TO FIRE TOWN CANNONS AT USS CONSTITUTION EVENT, MELVIN MEMORIAL REDEDICATION & MERIAM CORNER EXERCISE – CIB

Mr. Finigan advised the Board that the CIB also requested permission to fire the cannons at the USS Constitution Vietnam War Period Veterans Ceremony (May 17), and Melvin Memorial Rededication Ceremony (June 16). Mr. Finigan reviewed the responsibilities of the CIB during this type of events. Board members agreed to grant permission to the CIB to use the Town Cannon at the events described.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to approve the Concord Independent Battery request to fire the Town Cannon at the USS Constitution Vietnam War Period Veterans Ceremony (May 17), and Melvin Memorial Rededication Ceremony (June 16).

DISCUSS ARTICLE 16 CONCORD-CARLISLE REGIONAL HIGH SCHOOL CAPITAL PROJECTS

Johanna Boynton, Concord School Committee member; Dr. Laurie Hunter, Superintendent of Schools; and Jared Stanton, Director of Finance & Operations; appeared before the Board. Ms. Boynton reviewed Article 16. Article 16 requests approval for funds to do the following work at the High School campus: reconstruct the access road; install lighting along the access road; repair sidewalks and curbing; and restore lost parking spaces.

Ms. Boynton reviewed parking at the new high school campus, which was completed in 2015. The amount of parking at the old high school was 548 and the amount of parking spaces at the new high school is 413. Ms. Boynton noted that since 2015, multiple actions have been taken to overcome the parking deficit. Despite the Schools' best efforts, parking capacity remains inadequate. She reviewed student activities that could not be supported by existing transportation services. She noted that Gale Associates' study proposed a location and size of a future parking lot that would create 104 additional spaces.

Ms. Boynton reviewed the proposed access road reconstruction. The Thoreau Street entrance is in poor condition with cracks and patches. There is significant ponding with damaged, cracked, and uneven pavement at the Walden Street entrance. The entire length of the access road has numerous problems as currently paved. The tensile strength of the access road is failing and there may be a substandard base material. Also the sidewalks and curbing are cracked and in need of replacement. Concerns have continued regarding the safety of the road and the sidewalks and limited ADA Accessibility.

Ms. Boynton reviewed Article 16. The School Committee is requesting \$2,000,000 to complete both projects (approximately \$1,500,000 from Concord and \$500,000 from Carlisle. She said the actual costs could be less. The School District will only borrow an amount necessary to fund actual project costs with debt service commencing in FY21. The School Committee believes these two projects should be done together – if roadway done first, there will be considerable damage to new Access Road. Her presentation noted that while the estimates Gale Associates provided for both were stand alone, combining Parking and Access Road Reconstruction provides economies of scale. Based on FY20 assessment ratios and a 10-year repayment schedule, estimated FY21 assessment impact are: \$210,700 for Concord and \$69,300 for Carlisle (~ \$2.40/month per median household).

Mr. Stanton mentioned that Concord Public Works was in the process of reviewing the estimates provided by Gale Associates. Mr. Stanton reviewed a general estimate that he received from Public Works Director Rich Reine. It was noted that Public Works is in the process of finalizing the cost estimate and design for access road and expect to have a firm estimate and construction plan

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developed before Town Meeting. Until CPW's review is completed, it is not possible to determine any possible reductions in project cost.

Board members discussed concerns they had regarding soil conditions, lighting, and parking costs. Mr. McKean opined that each parking space could be paid by the students utilizing the parking spaces. Dr. Hunter and Mr. McKean discussed potential revenue. Dr. Hunter said that this article could complete the high school building project that began several years ago. Ms. Kaufman opined that the goal of Article 16 was not in line with the Town's sustainability goals because it would create more parking spaces.

TAKE POSITIONS ON WARRANT ARTICLES #16, 23, 25, 26

Board members agreed to wait until Town Meeting to take a position on Article 16.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to make their recommendation on Article 16 – Concord-Carlisle Regional High School Capital Projects at Town Meeting

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to recommend Affirmative Action on Article 23 – Appropriate Funds - Affordable Housing Development

Mr. Lawson reviewed proposed changes to the motions for Article 25 and Article 26. He noted that Town Counsel and the Town Moderator had reviewed the proposed changes. It was noted that a handout would be necessary for each article's motion at Town Meeting.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to recommend Affirmative Action on Article 25 – Authorize Special Legislation - Real Estate Transfer Tax for Affordable Housing as amended with the recommendation that it will come back for a vote at Town Meeting and, if necessary, General/Special Election.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to recommend Affirmative Action on Article 26 – Authorize Special Legislation - Building Permit Fee Surcharge for Affordable Housing as amended with the recommendation that it will come back for a vote at Town Meeting and, if necessary, General/Special Election.

REVIEW & APPROVE CONCORD MIDDLE SCHOOL STATEMENT OF INTEREST TO MASSACHUSETTS SCHOOL BUILDING AUTHORITY FOR 2019

Mr. McKean briefly reviewed the background of the Concord Middle School Statement of Interest to the Massachusetts School Building Authority. At the request of Ms. Kaufman, Dr. Hunter reviewed different ways to receive funding for this type of project.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: Having convened in an open meeting on April 1, 2019 and March 26, 2019, prior to the SOI submission closing date, the Select Board and the School Committee of Concord, in accordance with its charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest Form dated April 9th for the Concord Middle School located at 835 Old Marlboro Road and 1231 Old

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Marlboro Road which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future for priorities #2, #5, and #7, with deficiencies as follows: Priority #2. Elimination of severe overcrowding, this condition has been addressed by use of an elementary school being converted to use as the second middle school building in 1967, Priority #5. Replacement, renovation or modernization of school facility systems, such as roofs, windows, boilers, heating and ventilation systems, to increase energy conservation and decrease energy related costs in a school facility, the two buildings that serve as the Middle School have significant capital requirements with roofing, HVAC and other systems reaching obsolescence after nearly 50 years, Priority #7 Replacement of or addition to obsolete buildings in order to provide for a full range of programs consistent with state and approved local requirements; having two buildings located a mile apart requires duplication of many services and increases staffing costs significantly; these funds could be used to improve the direct educational experiences of the Middle School students housed in the Peabody and Sanborn buildings; and hereby further specifically acknowledges that by submitting this Statement of Interest Form, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the City/Town/Regional School District to filing an application for funding with the Massachusetts School Building Authority.

REVIEW & APPROVE MIDDLE SCHOOL BUILDING COMMITTEE CHARGE

Board members reviewed the current version of the Middle School Building Committee draft charge dated March 15, 2019. It was noted that a member of the Finance Committee cannot be a voting member of another committee.

Diane Proctor, 57 Sudbury Road and President of the Concord-Carlisle League of Women Voters, mentioned that language in the draft charge referred to the Willard School instead of the Concord Middle School. She said that it was important for significant community engagement in this discussion. Clarify language. AK under purpose?

Ms. Kaufman mentioned that the Climate Action Advisory Board (CAAB) suggested that the Town's Sustainability Director serve on the committee. Mr. McKean and Ms. Hotchkiss agreed with Ms. Kaufman. Mr. Lawson favored having a citizen with a sustainability background serve on the committee.

Nick Pappas, 300 Virginia Road and Chair of the Climate Action Advisory Board, stated a member from the CAAB could serve on the committee.

After a brief discussion with Town Manager Whelan, Mr. Lawson agreed to have the Director of Sustainability serve on the committee. Board members briefly reviewed the power and duties of the committee as outlined in Section C. Mr. Lawson discussed communication as outlined in Section D. Ms. Escobedo recommended that the committee's final report include a list of unfinished projects not included in the as-built plan with an estimated cost and timeline. Board members agreed with Ms. Escobedo and decided to continue their review of the draft charge to their next regular meeting.

DISCUSS LETTER RE: ROUTE 2 ROTARY IMPROVEMENTS

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Town Manager Whelan reviewed Public Works Director Rich Reine's memo regarding the Route 2 Rotary and Long-Range Transportation Plan, dated March 29, 2019. The Boston Region Metropolitan Planning Organization (MPO) is responsible for conducting the federally required transportation planning process for the Boston metropolitan area. The MPO is scheduled to meet in April to review projects and has invited communities and project advocates to provide written or oral testimony relative to each project. Board members reviewed the draft letter to the MPO.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to authorize the Chair to sign and transmit letter to Metropolitan Planning Organization substantially as drafted.

REVIEW BOARD PLANS FOR TOWN MEETING PRESENTATIONS AND STATEMENTS

Board discussed their plans for Town Meeting presentation and statements. Mr. Lawson reviewed the list of speakers and Board members reviewed their speaking assignments.

PUBLIC COMMENTS

None.

COMMITTEE LIAISON REPORTS

Mr. McKean provided updates on the ongoing work of the School Committee, Library Committee, and Commission on Disability. The 2019 Honored Citizen Ceremony was hosted by the Public Ceremonies and Celebrations Committee on March 24.

Ms. Hotchkiss reviewed recent Natural Resources Commission and Historic Districts Commission meetings.

Ms. Kaufman reviewed recent Climate Action Advisory Board and Historical Commission meetings.

Ms. Escobedo provided an update on the Affordable Housing Funding Committee's preparation for the upcoming Town Meeting. She also attended the recent Planning Board meeting which featured discussions regarding affordable housing.

Mr. Lawson briefly reviewed the Town Manager Search Committee's progress.

MISCELLANEOUS/CORRESPONDENCE

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to authorize the Chair to sign and transmit letters of congratulations to Benjamin Clarke and Logan Prewitt for attaining the rank of Eagle Scout, substantially as drafted.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to authorize the Chair to sign and transmit letter to the MBTA regarding concerns with the condition of West Concord Depot Building, substantially as drafted.

COMMITTEE NOMINATIONS

Katharine Mast of 38 Blueberry Lane to the Historic Districts Commission as Associate member; Kate McEneaney of 30 Union Street to the Planning Board; Kimberly Burns of 1165 Monument Street and Maria Madison of 165 Cambridge Turnpike to the Concord Center Cultural District Committee.

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COMMITTEE APPOINTMENTS

None.

ADJOURN

At 8:59 p.m. upon a motion duly made and seconded the Board UNANIMOUSLY

VOTED: to adjourn the meeting for the evening.

Respectfully submitted,

Michael Lawson, Clerk