

**TOWN OF CONCORD
SELECT BOARD
MINUTES
June 29, 2020
4:00PM
VIDEO CONFERENCE CALL**

Pursuant to notice duly filed with the Town Clerk, the Concord Select Board convened in a meeting via video conference call on June 29, 2020 at 4:00pm.

Present were Michael Lawson, Chair; Linda Escobedo, Clerk; Terri Ackerman, Susan Bates, and Jane Hotchkiss. Also present were Stephen Crane, Town Manager; Kate Hodges, Deputy Town Manager; Carmin Reiss, Town Moderator; and Kerry Lafleur, Finance Director.

Call to Order

Select Board Chair Michael Lawson called the meeting to order at 4:00pm.

Consent Agenda

- Approval of Town Accountant Warrants

Upon a motion duly made and seconded, it was UNANIMOUSLY
VOTED: to approve the consent agenda

Roll call vote

Mike Lawson: Aye
Terri Ackerman: Aye
Jane Hotchkiss: Aye
Linda Escobedo: Aye
Susan Bates: Aye

Town Manager Update

Town Manager Stephen Crane reported White Pond is open, as are the Town's summer programs.

There are now mandatory water restrictions in place from the Public Works Commission. Residents are allowed to water one day a week, and are instructing it be done on the same day as their trash collection.

Mr. Crane reports the Library's curbside pickup is going well, and in two weeks almost 2,000 items have been checked out.

The Town submitted a grant application for \$250,000 to the state's Shared Spaces program. The goal of this grant is to encourage opportunities for outdoor dining and the arts.

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DPLM is working with a consultant to evaluate business improvement districts in Town. The goal is to create formalized districts that work together to improve the vitality of the area through collaboration and special events.

Mr. Crane reported that building permit applications are up from where they were at this time last year.

Mr. Crane received calls from citizens concerned about the social distancing of bikers on the Bruce Freeman Rail Trail, and encouraged all users of the trail to be considerate including practicing social distancing and wearing masks while passing.

Chair's Remarks

Mr. Lawson reported that the Select Board will hold an executive session on July 1st at 4:00pm to discuss the ongoing Estabrook Road litigation.

The Town and Library Corporation are finalizing their agreement, and it will be reviewed at the July 13 Select Board meeting.

The Finance Committee and Select Board will be reviewing the articles set to be moved at the Town Meeting in September, and will make recommendations to the Moderator for what should be placed on the consent agenda, and what should be moved.

Public Hearing: Grant of Location Application by Comcast for the Underground Installation of Coaxial Cable at 52 Main Street.

Upon a motion duly made and seconded, it was UNANIMOUSLY

VOTED: to open the public hearing on the grant of location application by Comcast for the Underground Installation of Coaxial Cable at 52 Main Street.

Roll call vote

Mike Lawson: Aye

Terri Ackerman: Aye

Jane Hotchkiss: Aye

Linda Escobedo: Aye

Susan Bates: Aye

The representative from Comcast did not attend.

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Assistant Town Engineer Justin Richardson reported that Public Works is in support of the project.

There were no public comments.

Upon a motion duly made and seconded, it was UNANIMOUSLY

VOTED: to close the public hearing on the grant of location application by Comcast for the Underground Installation of Coaxial Cable at 52 Main Street.

Roll call vote

Mike Lawson: Aye

Terri Ackerman: Aye

Jane Hotchkiss: Aye

Linda Escobedo: Aye

Susan Bates: Aye

Upon a motion duly made and seconded, it was UNANIMOUSLY

VOTED: to approve the Grant of Location application by Comcast for the Underground Installation of Coaxial Cable at 52 Main Street, with conditions as detailed in the memo from Town Engineer Steve Dookran, dated June 16th, 2020.

Roll call vote

Mike Lawson: Aye

Terri Ackerman: Aye

Jane Hotchkiss: Aye

Linda Escobedo: Aye

Susan Bates: Aye

Changes to the Gerow Project and Scope

Deputy Town Manager Kate Hodges attended to provide an update on the status of the Gerow project. Ms. Hodges explained that the most recent changes are a reversion back to the original plans for the project about a year and a half prior. The goal of these changes was to make the more efficient use of public funds in light of the financial strain caused by the COVID-19 Pandemic, while still providing the core features of the project. The project has had a notice of intent with the Natural Resources Commission, and has had a thorough internal staff review process that included the Director of Public Health. Ms. Hodges provided a memo regarding the project updates, which can be found in the [meeting materials](#). In response to citizen questions regarding the current plan, the board encouraged Ms. Hodges to hold another public forum, which she agreed to do later in July.

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RHSO FY20 Budget Adjustment

Finance Director Kerry Lafleur attended on behalf of the Regional Housing Services Office in order to request an adjustment in the FY20 budget appropriation. Under Article 8 of the 2019 Annual Town Meeting, an amount of \$265,000 was budgeted for the RHSO. Under Massachusetts General Law Chapter 4 Section 53 E, at any point in the fiscal year a revolving fund budget can be adjusted with the approval of the Finance Committee and the Select Board. RHSO is asking for an additional \$20,000 for this fiscal year. The reason for this is the RHSO has contracted additional services for the member communities, and there have been an addition of communities requesting services from the RHSO. All of the fees that support their budget have been collected, so there is no additional increase to the Town of Concord. The Finance Committee took up this item on Thursday, July 25th and approved this item.

Upon a motion duly made and seconded, it was UNANIMOUSLY

VOTED: to approve the RHSO FY20 Budget adjustment as presented.

Roll call vote

Mike Lawson: Aye

Terri Ackerman: Aye

Jane Hotchkiss: Aye

Linda Escobedo: Aye

Susan Bates: Aye

FY20 Year End Transfer

Finance Director Kerry Lafleur attended to explain that the request was seeking line item transfers, which the Select Board has the authority to approve between May 1st and July 15th. Ms. Lafleur provided a memo detailing the transfer request as follows:

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The following list of transfers was prepared based upon estimates of bills not yet received and/ or those in process, which include:

Chapter 44, Section 33B Transfers Needed to Close FY20				
number	to/ from	line item	line description	amount
1	to	2	Legal Services	\$ 291,000
2	to	3	Elections & Registrars	\$ 22,000
3	to	4	Town Meeting & Reports	\$ 20,000
				\$ 333,000
4	from	26	Library	\$ 333,000

The deficit in legal services has been widely discussed at several meeting. The anticipated deficits in Elections and Town Meeting is a result of assumed additional expenses related to Covid-19, some or all of which may be reimbursed through the CARES Act. The sum total of the anticipated deficits is \$333,000.

As a result of the Covid-19 pandemic, several of our departments have been operating at reduced levels resulting in budgetary savings. As such, we are able to cover these line item deficits within our existing FY20 appropriation. Specifically, I seek a transfer from Line Item 26, Library, in the amount of \$333,000 to cover these deficits.

Upon a motion duly made and seconded, it was UNANIMOUSLY

VOTED: to approve an FY20 year end transfer of \$333,000 Library Account for \$291,000 to the Legal Services Account, \$22,000 to the Elections & Registrars Account, and \$20,000 to the Town Meeting & Reports Account.

Roll call vote

- Mike Lawson: Aye
- Terri Ackerman: Aye
- Jane Hotchkiss: Aye
- Linda Escobedo: Aye
- Susan Bates: Aye

Review Economic Vitality Committee Recommendations

Town Manager Stephen Crane noted the co-chair of the Economic Vitality Committee sent him a list of recommendations they wanted to share with the Select Board, which included the following.

1. The EVC unanimously recommended to waive the relevant signage guidelines (including, but not limited to, HDC) to allow greater flexibility to the shops and restaurants to fly flags or use other signage to communicate that they are open; the rallying cry for help is quite clear...this would be very well received by the merchants.

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2. Explore fee waivers, abatements, or interest-free deferrals for Town owned internet and other utilities (or waiving any installation/re-connecting fees) for businesses dealing with the COVID-19 crisis; every bill adds to the mountain of debt for our struggling shops and restaurants...Town owned assets seem like a good place to start. Dawn from the Bookshop had a really good point as well – this strategy could have an added benefit of encouraging more businesses to sign up for the Town internet...ultimately benefitting the whole Town when things improve...

3. Consider covering the costs to conduct a Town-wide community event, which could be organized through the Umbrella Arts Center, to build/assemble/paint picnic tables for use in open spaces around Town. This would create a highly visible demonstration of the Town spirit in coming together around a public/private partnership to help families engage with the Town AND to create beautiful options for outside ‘dining’...in addition to the costs of the tables, we WOULD need to consider the additional costs of trash cans and DPW pickup services. We may also need sanitation supplies for the tables. Jerry Wedge from the Umbrella and Jennifer Schunemann from EVC will work on a proposal if the Town would like to consider details.

Review of Town Meeting Select Board Articles

The Select Board needs to review the current list of warrant articles for Town Meeting and determine which ones are essential to be taken up at the eventual meeting. Part of this process will be making a recommendation to the Town Moderator regarding which articles can be placed on the Consent Agenda, which articles need to be moved but with deliberation. The Select Board made the initial recommendations as described in the following chart.

Article #	Article Name	Essential, needs to be Moved with deliberation	Consent Agenda	Not essential to be Moved, can be postponed	No decision made
13	Affordable Housing Trust Bylaw		X		
14	Funds for Affordable Housing		X		
15	Senior Means Tested Property Tax Exemption		X		
16	Tax Increment	X			

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	Financing				
29	Middle School Stabilization		X		
40	Fossil Fuel Infrastructure				X
49	Neonicotinoids Prohibition on Town Land			X	
50	Additional Liquor Licenses		X		

Accommodations for Citizen Articles not Moved at the Postponed Annual Town Meeting

Mr. Lawson proposed that the Select Board offer to adopt postponed Citizen Petitions from the 2020 Annual Town Meeting to a future Town Meeting. This would incentivize petitioners to postpone non-essential articles to accommodate health risks of holding a Town Meeting during the COVID-19 Pandemic. The Select Board adopting these articles would not be an endorsement of the contents of the article by the Select Board, but it would relieve the petitioner of meeting the signature requirement and administrative burden of getting their article on the warrant again.

The Select Board members each agreed that this was a fair and reasonable approach to take.

Upon a motion duly made and seconded, it was UNANIMOUSLY

VOTED: move that if a citizen article originally scheduled for the 2020 Annual Town Meeting is not moved at the 2020 Annual Town Meeting, that it be automatically placed on the next scheduled Town Meeting Warrant as a Select Board article.

Roll call vote

Mike Lawson: Aye
Terri Ackerman: Aye
Jane Hotchkiss: Aye
Linda Escobedo: Aye
Susan Bates: Aye

Review of AG’s decision regarding an OML Complaint File by Rob Nislik

The Attorney General’s full review can be found in the [meeting materials](#).

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Mr. Lawson summarized the findings of the review by stating the complaint alleges that 1) a quorum of the Select Board improperly deliberated by email approximately 31 times between March 29, 2016 and May 14, 2018, and 2) the board improperly met in executive session on September 20, 2016; November 29, 2016; December 12, 2016; March 27, 2017; June 19, 2017; and October 16, 2017.

The Attorney General's Office found that 7 of the 31 emails were violations of the Open Meeting Law. There are the violations that the AG's Office found consistent of brief, passing remarks by different Board members over two years that do not demonstrate a pattern of email deliberations among a quorum outside of a posted meeting. Therefore, the Attorney General's Office did not find that the Board acted with deliberate ignorance of the law, and they declined to find that this violation was intentional.

Mr. Lawson cautioned all board members to be more careful in their email correspondence in sending or replying to more than one board member regarding any items of current or potential deliberation.

With respect to the complaint that alleges the Board met improperly, the Attorney General concluded that the Board properly met in executive session, and it was reasonable to conclude that announcing the specific topics of litigation prior to convening in executive session would have compromised the purpose of executive session and alerted the potential litigants.

Committee Nominations: Beth Kelly of 39 White Avenue to the White Pond Advisory Committee for a term to expire April 30, 2023. Jennifer McGonigle of 31 Highland Street to the Economic Vitality Committee for a term to expire April 30, 2023. Nancy Stone of 70 Beharrell Street to the Bruce Freeman Rail Trail Advisory Committee for a term to begin on the first day of the month following the 2020 Annual Town Meeting, to expire on April 30, 2023.

Committee Liaison Reports

The Planning Board held a listening session on ideas for future redevelopment of the area and Crosby Market complex. The Planning Board will be taking feedback on the visioning exercise for the next two weeks.

Ms. Hotchkiss reported that the White Pond Advisory Committee met, and they discussed the uptick in activity in recent months, and problems with upkeep of the property.

Ms. Ackerman reported that the Library Committee met, where they discussed putting out tables and chairs outdoors in a WIFI-accessible area. 200 students signed up with the Library Summer Program.

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Mr. Lawson noted that the Finance Committee had elected Mary Hartman as the new chair following Town Meeting, and approved a legal budget transfer request. The Municipal Light Plant Board reviewed their cost of services rate design, and had a discussion of energy credits.

Ms. Escobedo reported among the meetings she attended this week was the MMA webinar Economic Development that mentioned a number of potential grant opportunities to benefit businesses and municipalities.

Miscellaneous Correspondence

Mr. Lawson noted correspondence about capital spending, the Gerow property, a complaint about posting on the Town website regarding the Police seeking information, and a complaint about brush blocking an entrance to the Estabrook trail.

Public Comments

Tanya Gailus of 62 Prescott Road was concerned about when the postponed warrant articles would be moved. Mr. Lawson clarified that the articles that were postponed would be moved whenever the next Town Meeting was, whether it was a Special Town Meeting, or the next Annual Town Meeting.

Diane Proctor of 57 Sudbury Road asked when everyone in the Town would receive and updated warrant, and what the protocol for each types of articles would be. Mr. Lawson stated that the current thinking is that articles will have presentations posted on the Town website before the meeting, and there will not be presentations made at Town Meeting. The timing of the notification of the new warrant is forthcoming.

Denise English-Haartz expressed concern of the third consecutive year the Town has gone over its' budget for legal expenses, and the lack of citizen decision-making power on allowing these expenses.

Adjourn

Upon a motion duly made and seconded, it was UNANIMOUSLY
VOTED: to adjourn

Roll call vote

Mike Lawson: Aye

Terri Ackerman: Aye

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Jane Hotchkiss: Aye
Linda Escobedo: Aye
Susan Bates: Aye

Minuteman Media Network: <https://www.youtube.com/watch?v=dqrlpiVSX58>

Meeting Documents: <https://concordma.gov/DocumentCenter/View/25112/June-29-SB-Packet>