

**TOWN OF CONCORD
SELECT BOARD
AGENDA
October 1, 2018**

6:30 PM – Room 242 Library Medium Project – Concord-Carlisle Regional High School	
1.	Call to Order
2.	Consent Agenda: <ul style="list-style-type: none"> • Town Accountant Warrants • Minutes • One Day Special Licenses <ul style="list-style-type: none"> · Concord Scout House 10/12 6pm-9pm 74 Walden Street All Alcohol · Jericho Road Project 10/20 6pm-9pm 20 Lexington Road Wine & Malt · Welch's 10/30 2pm-5pm 40 Westford Road Wine & Malt
3.	Town Manager's Report
4.	Chair's Report
5.	Take Positions on Warrant Articles
6.	Public Comments
7.	Miscellaneous/Correspondence
8.	7pm – Adjourn to Special Town Meeting in Auditorium

PENDING

Monday	October 1	7pm	Special Town Meeting	CCHS – Auditorium
Tuesday	October 2	6:30pm	Select Board Meeting <i>(IF NECESSARY)</i>	CCHS – Room 242
Tuesday	October 2	7pm	Special Town Meeting <i>(ADJOURNED SESSION IF NECESSARY)</i>	CCHS – Auditorium
Monday	October 8	All Day	Columbus Day	Town Offices Closed
Monday	October 15	7pm	Select Board Meeting	Town House
Monday	October 29	7pm	Select Board Meeting	Town House

Supporting materials for agenda items are available online at www.concordma.gov/sbmtgdocs. Materials are uploaded on the Friday before a Select Board meeting

Weekly One Day License Log – October 1, 2018

Applicant Name & License Number	Phone Number	Date	Location	Type of Alcohol	Event Details
18-156 Concord Scout House	978 369-3455	10/12	74 Walden Street	All Alcohol	Event Coordinator: Hannah Fingerle Bartenders: Chris Saia, Rosemary Lionetta Under 21: No First License in Concord: No
18-157 Jericho Road Project	978 377-8898	10/20	20 Lexington Road	Wine & Malt	Event Coordinator: Katharine Roberts Bartenders: Zach Rodriquez Under 21: Yes First License in Concord: Yes
18-158 Welch's	978 341-1236	10/30	40 Westford Road	Wine & Malt	Event Coordinator: Geoffrey Mederios Bartenders: Ben Elliott Under 21: No First License in Concord: Yes

**Town of Concord
Select Board Public Hearing Minutes **DRAFT****

**Joint Public Hearing for Special Town Meeting
Finance Committee—Select Board—Planning Board
September 12, 2018**

PRESENT FOR SELECT BOARD: Thomas McKean, Linda Escobedo and Michael Lawson

PRESENT FOR FINANCE COMMITTEE: Thomas Tarpey, Dean Banfield, Mary Hartman, Grace Hanson, John Hickling, Karle Packard, Phil Swain and Andrea Zall

PRESENT FOR PLANNING BOARD: Gary Kleiman, Burton Flint, Matthew Johnson and Nathan Bosdet

OTHERS PRESENT: Town Manager Chris Whelan; School Superintendent Dr. Laurie Hunter; several committee and board members; several staff members; and about 25 members of the general public

PUBLIC HEARING OPENED

At 7:00 pm Select Board Chair McKean called the Select Board Public Hearing to order. Planning Board Chair Kleiman called the Planning Board Public Hearing to order. Finance Committee Chair Tarpey called the Finance Committee Public Hearing to order, once a quorum was reached at 7:04 pm. The hearing was held in the Hearing Room at the Concord Town House. Mr. McKean noted that the meeting was being recorded and broadcast live by CCTV and explained that the hearing was for the purpose of reviewing the Warrant for the October 1 Special Town Meeting. Committee and board members, along with members of the public were invited to ask questions or make comments about the presentations and the substance of the Warrant Articles.

- ***Finance Committee Public Hearing***—Articles 1, 4, 5, 6, 7, 8, 9, 10 and 11
- ***Select Board Public Hearing***—Articles 2 and 13
- ***Planning Board Public Hearing***—Articles 3 and 12

ARTICLE 1. EMINENT DOMAIN SETTLEMENT (214Y MAIN STREET)—ADDITIONAL COMPENSATION

At 7:04 pm Town Manager Whelan explained the history of the Town's acquisition of the W.R. Grace site, which was acquired by eminent domain in August 2015 for the sum of \$800,000, which was the appraised value of the property at the time. Article 1 of the April 2015 Special Town Meeting appropriated \$1.2 million for this purpose. In 2017 the property owners claimed that the value should have been substantially higher, and asked the Town for additional funds (\$6.3 million). A settlement has recently been reached, with the Town paying an additional \$700,000 for the property, for a total of \$1.5 million. Since \$1.2 million has already been appropriated, Article 1 requests an appropriation of \$300,000. Article 1 is Part 1 of a three-part settlement agreement.

Resident Ruth Lauer asked whether the source of funds would be from the Light Plant and the Water Department, which were the sources for the original funding. Mr. Whelan responded in the affirmative. When asked whether the site would be used for wastewater disposal, Mr. Whelan responded that he does not anticipate that happening for at least ten years. Mr. Tarpey

asked about liability for cleanup, and Mr. Whelan responded that this would be the responsibility of W.R. Grace, per written agreements between the parties.

ARTICLE 2. EMINENT DOMAIN SETTLEMENT (214Y MAIN STREET, CONCORD & 37 KNOX TRAIL, ACTON)—GRANT OF EASEMENT

At 7:12 pm Town Manager Whelan explained that Article 2 is Part 2 of a three-part settlement agreement for this property. He explained that W.R. Grace desires an emergency access road to connect property that the company owns in Acton to Knox Trail in Acton, and this article authorizes the Select Board to deed an easement over land the Town took by eminent domain from W.R. Grace in 2015. This would be a non-exclusive, perpetual easement exclusively for emergency purposes. W.R. Grace has agreed to pay for the relocation of some solar panels that will be displaced due to the 30' easement, and they would also be responsible for the construction of the roadway.

Dean Banfield, speaking on his own behalf, asked whether the easement could lapse at some time in the future, and Mr. Whelan agreed to check with Town Counsel. In response to a question from Ruth Lauer about the use of the access road by W.R. Grace to check its wells, Mr. Whelan emphasized that the road would be used exclusively for emergency purposes.

ARTICLE 3. EMINENT DOMAIN SETTLEMENT (214Y MAIN STREET)—ZONING BYLAW AMENDMENT

At 7:17 pm Director of Planning & Land Management explained that Article 3 is Part 3 of a three-part settlement agreement for this property. This Article proposes a zoning change to Sect. 4.4.1 of the Zoning Bylaw to allow use of the easement proposed under Article 2, permitting access over Town-owned land to an adjacent parcel with the Town's permission. Article 3 amends the principal uses in this zoning district to specifically add emergency vehicular access as a permitted use.

ARTICLE 4. WHITE POND ASSOCIATES—GIFT OF REAL ESTATE

At 7:19 pm Town Manager Whelan remarked that he and the Select Board are very excited to hear from the White Pond Associates that they are interested in deeding to the Town 18.14 acres across four parcels of land, including two waterfront parcels. He explained that under the terms of the gift, two of the parcels would be deeded to the Town under the custody of the Natural Resources Commission (acting as Concord's Conservation Commission). Included in the gift is a 65-car parking lot. Lot B-1 would allow for swimming as its principal use. The gift also includes any funds remaining at the end of the 2018 calendar year (approximately \$300,000). These funds can only be used for capital improvements. Among the needed improvements are upgrading the bathroom facilities, providing for accessibility from the parking lot to the beach, and improving parking for handicapped users. In addition, the State has indicated that it is interested in the Town assuming ownership of the former county road that leads to the pond, and state funds are available to make improvements to this land (boat launch area). Mr. Whelan noted that stickers would be made available for resident use, and access to the beach and parking lot would be controlled due to capacity limitations.

Mary Hartman was grateful to the donors for the donation of the land, and expressed hope that fees from memberships and day passes would cover the operating costs. Mr. Whelan agreed, and noted that he would have a better idea by Town Meeting as to what capital improvements would be required. Alan Beveridge, 28 Shore Drive, remarked that the lower corner of the B-1 map included his land. He owns 31' of deeded waterfront, which is incorrectly excluded on the Assessors' maps. He also noted that former Town Appraiser Jay Closser agreed that the map was inaccurate. Mr. Beveridge asked that the map be corrected prior to the Town's acquisition

of this property. Mr. Whelan noted that the recent property survey done by Perley Associates correctly shows Mr. Beveridge's waterfront frontage. Mr. Beveridge asked that a clarification be made at Town Meeting as to whether agricultural uses are allowed on conservation land.

Cynthia Rainey noted that algae blooms on White Pond closed the beach for much of this past summer. She asked whether there are any plans to improve the condition of the pond. She also noted that the Bruce Freeman Rail Trail does not provide direct access to the pond, and whether bike or walking access would be allowed to the swimming area. Mr. Whelan responded that the designated beach area would be the only area for public swimming, and even those walking or biking would require a day pass for access.

Tom Tarpey noted that 154 parcels were recommended for sewerage in this area, and he inquired as to whether acquisition of this land would accelerate the need to sewer the area. Mr. Whelan responded that this property would not be appropriate to host a wastewater treatment facility, and that any new bathroom facility on the property would most likely require a new sewerage system that would be pumped up to a new treatment facility in the parking lot area. Mr. Beveridge remarked that there is a lot of existing runoff coming from the parking lot. He inquired as to whether beach access would be limited to Concord residents. Mr. Whelan responded that the beach area would be closed off once it reached capacity, but he was not sure whether access could be limited to Concord residents. Mr. Beveridge expressed the hope that a buffer would be maintained between the public beach area and the abutters.

Dean Banfield remarked as a former member of the Natural Resources Commission that agricultural uses are allowed on land preserved for open space and conservation purposes. Alice Lencioni asked whether the proposed parking facility would be in the current area, and Mr. Whelan responded that he anticipated that parking would be in the same general area. Ms. Lencioni noted that the area adjacent to the existing parking lot is full of pink lady slippers, and she emphasized the need to preserve these rare flowers. She also expressed concern about potential sewer runoff from White Avenue. She noted that she had only received the Warrant for the Special Town Meeting today, feeling that this is not adequate notice for a fully transparent hearing.

Ruth Lauer inquired as to how long "perpetuity" is for the purposes of conservation restrictions on the land, and whether the restrictions would be informal. Mr. Whelan responded that he is working on the conditions of the restrictions, which will be available in more detail at Town Meeting. Matt Johnson, a member of the Planning Board but speaking on his own behalf, expressed concern about plans for the recently acquired Gerow land. He asked what can be expected for a recreational area for residents of West Concord. Mr. Whelan noted that the recreational aspects of the Gerow land are still under consideration, and include kayaking, boating and picnicking. He noted that providing for swimming at Warner's Pond would be a major challenge and involve millions of dollars. Mr. Johnson suggested that an update of the Gerow land be included in the Town Meeting presentation for this White Pond land.

Karle Packard asked when the \$300,000 would be available from the White Pond Associates. Mr. Whelan responded that the bulk of the funds would be made available at the end of CY2018, when the land transaction is finalized. A small amount of the remaining funds would be held back in order for the Association to clear any outstanding liabilities. Marcia Schloss expressed concern as to how the beach program would be implemented. She hoped that if out-of-town residents are allowed access to the beach, that some parking spaces be reserved for Concord residents. Mr. Whelan noted that there may be a requirement to "grandfather" access

to membership to existing White Pond members who live outside of Concord, possibly on a short-term basis.

ARTICLE 5. WHITE POND—APPROPRIATION OF FUNDS FOR BEACH OPERATIONS

Town Manager Chris Whelan explained that Article 5 provides for an appropriation of \$30,000 in FY19 in order to take steps to open the beach area by Memorial Day weekend. He noted a goal that operating the beach area would “break even” beginning in Year 3, not including any capital improvements that would be required. He summarized that the estimated FY19 annual income is \$55,000, and the annual expenses for FY19 are estimated to be \$85,000, leaving a FY19 deficit of \$30,000. Dean Banfield asked whether providing improved handicapped access to the beach is required immediately. Mr. Whelan responded that improvements are necessary, but not imminent.

ARTICLE 6. CONCORD-CARLISLE REGIONAL HIGH SCHOOL—CAPITAL IMPROVEMENTS

Supt. of Schools Dr. Laurie Hunter explained that Article 6 provides for approval of \$100,000 of debt authorized by the Regional High School Committee for various capital improvements at the high school. She reviewed proposed safety improvements, including \$30,000 for replacement of an emergency shower in the science lab which has not worked properly since construction, noting that the warranty has expired. Other safety improvements include \$20,000 for a spray booth for duct work in the theater department; \$25,000 for lower field drainage improvements to correct a problem with water pooling near abutters, requested by the Natural Resources Commission; and \$25,000 for an ambulance cut to the Nurse’s Office, requested by the Fire Department. She noted that Concord’s share of these costs would be approximately 75%.

Matt Johnson, a member of the Planning Board but speaking on his own behalf, was upset that he did not receive adequate notice of the hearing, having only received the Warrant in today’s mail. He did not feel that these proposed capital improvements are urgent, and should wait until the Annual Town Meeting. He was concerned that these are being proposed outside the regular cycle of events. He emphasized that budgetary items are generally considered in the spring at the Annual Town Meeting, unless there is an emergency. Dr. Hunter responded that the safety issues and the Natural Resources Commission’s request were not known until May 2018, and not enough definitive information was known prior to the April 2018 Annual Town Meeting. Ruth Lauer seconded the opinion raised by Mr. Johnson, noting that these proposed capital improvements are all part of the new high school. She remarked that some individual or group was responsible for confirming that work done at the high school was complete and done in accordance with plans. She felt that there should have been some recourse to these construction errors or omissions, and inquired as to the presence of a capital improvement plan for the high school. She asked whether the FY20 capital plan would be reduced by these requests. Dr. Hunter noted that there have been no capital requests for the new building since its construction, noting that there are always a few dangling pieces following construction, and these fall within that category. CCHS Facilities Manager Brian Schlegel noted that the need for duct work in the Theater Department was identified after the building was constructed; the faulty mixing valve in the emergency showers was found towards the end of the warranty period, and was missed by the commissioning agent.

ARTICLE 7. CONCORD-CARLISLE REGIONAL HIGH SCHOOL—CAPITAL FEASIBILITY STUDY

At 7:58 pm School Supt. Dr. Laurie Hunter explained that the high school campus is very complex, and this request is for approval of \$200,000 in debt for the purpose of conducting a design and engineering study of capital improvements at the high school. She anticipates that a definitive request will be available by the Special Town Meeting, and she expects that the

number may be below \$200,000, with Concord's share approximately 75% of the borrowing amount. The balance would be borne by Carlisle (Special Town Meeting scheduled for October 2 in Carlisle). Projects to be included for study are additional parking, potential uses of the former landfill area, roadway and lighting improvements, field improvements (including concessions and restrooms), and other items. Costs will be assessed annually over a period of years consistent with the terms of the bonds to be issued.

Dr. Hunter provided background highlights: CCHS opened April 2015; CC@Play Project took place 2014-2016; a public water supply well is adjacent to the campus; portions of the campus are within the Groundwater Conservancy District; and Concord's bylaws limit impervious surface amounts. Identified improvements include paving, lighting and sidewalks; student and community parking in order to meet student demand and accommodate daytime activities (while simultaneously raising consciousness for sustainability needs); a solution to the need to irrigate the grass amphitheater and build a capacity to irrigate the lower fields (the current irrigation pond is insufficient). Consideration is being given to provide a second well on campus for irrigation purposes. In addition, the current restrooms at the Memorial Field Stadium are non-compliant with required ratios and access. Dr. Hunter emphasized her commitment to reducing the school's carbon footprint, but recognized the reality of the demands from both students and parents for additional parking.

Dr. Hunter reviewed possible future capital improvements, none of which can be adequately planned without the engineering input from this proposed feasibility study. There is competition between parking land and track land, and the School Department needs to be better informed before making any proposal for future campus capital projects. The Campus Advisory Committee hopes to develop a long-term vision for the campus. Possible projects that have already been identified include a track (with likely some private funding); a field house/ice rink (with likely some private funding); and a pavilion, greenhouse, and outdoor classroom. Given the impervious surface and Groundwater Conservancy limitations, engineering studies are required to even consider the viability of these projects. She emphasized that the purpose of the study is to provide accurate costs prior to making funding plans; to identify limitations prior to allowing any development; and to create a 3-5 year plan for implementation. She also noted that the cost of studying all of the projects simultaneously is more efficient than conducting single studies.

Dr. Hunter reviewed the proposed timing:

- Fall 2018 – bids for the feasibility study determined prior to the October 1 Special Town Meeting (bid opening September 25)
- Winter 2019 – Study to inform any proposed articles for the 2019 Annual Town Meeting
- Spring 2019 – School Committee to consider immediate and future projects under consideration and determine priorities

ARTICLE 8. TOWN MANAGER SEARCH—APPROPRIATION OF FUNDS

At 8:09 pm Select Board Chair Tom McKean explained the request for \$20,000 for the purpose of hiring a professional search firm to assist with the recruitment of qualified candidates to replace the current Town Manager. He noted that a number of area communities have used a search firm as part of the Town Manager selection process. There were no comments or questions.

ARTICLE 9. POLICE DEPARTMENT—FY19 SUPPLEMENTAL APPROPRIATION

At 8:11 pm Police Chief Joseph O'Connor explained that this request would transfer \$48,000 from the Emergency Response Stabilization Fund to the Police Department, to be combined

with gift funds to pay the salary of one additional School Resource Officer, for a total cost of \$67,000. He noted that the additional staff person would be partly funded by the Town and the Community Chest. He noted that the Department currently has one School Resource Officer, with a focus at the high school. There is an increased need to have a police presence at the middle school, during formative years when building positive relationships with police personnel is important.

Thomas Tarpey inquired as to the future financial implications of this position—with a grant available for FY19, what amounts would be required in future years? Chief O'Connor noted that the Community Chest would provide \$17,000 the first year; \$11,000 the second year; and \$6,000 in the third year. He anticipates that future requests will be made to use the Emergency Response Stabilization Fund for funding. Chief O'Connor noted that the Department has a grant that partly funds a social worker to assist with youth mental health issues. He also noted that Acton has five school resource officers, and Waltham has one officer in each school. He emphasized that the Police Department has had 35 full-time employees since the Clinton Administration, and this request would bring the staffing up to 36. In response to a question from Janet Rothrock, Chief O'Connor indicated that this position would be primarily for the middle school. Ms. Rothrock asked why Carlisle was not contributing to the cost of the high school resource officer. Chief O'Connor responded that the Concord Police Department is responsible for providing police services within the boundaries of Concord. No funds are provided by the Regional School District for policing at the high school campus.

Ruth Lauer asked for the remaining balance in the Emergency Response Stabilization Fund (which was originally funded by the Mews housing project). Chief O'Connor responded that there is a balance of approximately \$450,000, which could be used for a few more years.

ARTICLE 10. STATE GRANT FOR TRANSIT SERVICES—APPROPRIATION OF FUNDS

At 8:22 pm Director of Planning & Land Management Marcia Rasmussen explained that the Town has received a state grant of \$3,210 from the Commonwealth Transportation Infrastructure Fund, which is Concord's allocation based on the estimated number of commuters who passed through Concord while commuting to work during FY18. The funds need to be appropriated in order to be used by the Town, and Article 10 serves this purpose. The funds may only be used to provide transportation services in the community, including work on transportation infrastructure projects and the complete streets program. Gary Kleiman, a member of the Planning Board but speaking on his own behalf, asked how much would be leveraged. Ms. Rasmussen responded that \$10,000 has been set aside by the Town, and the MAPC has identified projects within Concord costing approximately \$10,000. In response to a question from Ruth Lauer, Ms. Rasmussen responded that the commuter calculation for the grant is other than privately-driven vehicles. She noted that one suggested use of the funds would be for the purchase of an electric vehicle to transfer tourists from the train station to other locations in Concord, along with other municipal uses.

ARTICLE 11. LEGAL SERVICES—APPROPRIATION OF FUNDS

At 8:28 pm Town Manager Chris Whelan explained the purpose of the FY19 supplemental appropriation of \$100,000 is to cover additional legal costs related to litigation and collective bargaining matters. These funds would supplement the FY19 \$250,000 original appropriation for legal services. He reviewed the budgeted amounts vs. expenditures for legal services from FY14-FY18. During these five years, expenditures were under the \$225,000 appropriation in FY14, FY15 and FY16. In FY17, expenditures exceeded appropriations by \$30,000, with the surplus coming from the Reserve Fund. During FY18, \$450,000 was spent (increase due to Estabrook Road litigation and labor negotiations), with the overage coming from the Reserve

Fund. With this current \$100,000 supplementary appropriation, there would be less reliance on the Reserve Fund.

Phil Swain asked how costs went from \$255,000 in FY17 to \$450,000 in FY18. Mr. Whelan explained that Concord generally has not been involved in a lot of litigation, and he has done labor negotiations himself without the use of labor counsel. This was not possible during FY18. He noted that approximately \$250,000 has been spent on the Estabrook Road litigation. The cost of legal services is \$295/hour for partners, with an anticipated increase to \$320/hour. The costs are lower for non-partners. Grace Hanson asked whether budget estimates are requested from Town Counsel prior to establishing the legal services budget. Mr. Whelan responded that he and the staff are the ones who determine legal cost estimates when preparing the budget. He also emphasized that the past year was unusual, with approximately 50% of the cost due to litigation.

Matt Johnson, speaking on his own behalf, asked whether a resolution to the Estabrook Road project is close, and whether Concord's annual expenditures are typical of similarly sized communities. Mr. Whelan responded that Concord's \$250,000 appropriation is typical and is "middle of the road" for similar communities—higher than Carlisle and lower than Lexington. What he felt was remarkable is that Concord's appropriation hasn't changed in 15 years, since he carefully manages legal costs. Eric Van Loon asked if the Estabrook Road litigation is not settled, whether there is an estimate of how much this will cost going forward. Mr. Whelan responded that the litigation has not yet entered the discovery phase. Mr. Van Loon requested that Town Counsel be asked to provide an estimate of legal costs for Estabrook Woods prior to the Special Town Meeting.

ARTICLE 12. AMENDMENT OF PHASE II BLACK BIRCH SITE DEVELOPMENT AND USE PROPOSAL

Regional Housing Administrator Liz Rust presented Article 12, at the request of the Select Board. She explained that the Black Birch II Alternative PRD included a provision that two of the 16 units be sold as affordable units. The intent was that the units would be included in Concord's subsidized housing inventory and count towards Concord's 10% affordable housing goal. In February 2018 the State Department of Housing and Community Development (DHCD) clarified its policy, indicating that affordable units are not eligible for inclusion in the 10% quota if children are prohibited. Black Birch II is a 55+ residential community. The options are to continue with the project as currently permitted, with the two affordable units not counted in the 10% quota, or to amend the proposal and accept the developer's offer to contribute \$1 million as a payment in lieu of construction of these affordable units. The funds would be used for town-sponsored affordable housing efforts. Karle Packard asked for clarification on DHCD's interpretation—what about senior housing? Ms. Rust explained that DHCD allows for senior housing, restricted to residents 62+ years and older. The only issue at this time is the units developed for those 55+ years.

Jack McBride, developer of the Black Birch projects, explained that he has no preference (2 affordable units or \$1 million in funds). He plans to attend Town Meeting, but doesn't intend to vote. He explained that under the alternative PRD rules, there is no requirement for affordable housing units. Phase 1 of Black Birch was possible because the landowner gave him a reduced price on the land in order to accommodate affordable housing on the site, and he was happy to be able to do so with Phase 1. He noted that Phase 1 was a very successful project, and he is now trying to "pay back" the Town for this success. Gary Kleiman asked who would be the decision maker as to housing units or funds. Ms. Rust responded that Town Meeting would make that decision under Article 12. Mary Hartman inquired about the process for determining

how the \$1 million would be spent. Ms. Rust responded that there will be a discussion with the Select Board prior to the Special Town Meeting to reach some guidelines on this issue.

Nicole Palmer, speaking on behalf of the Concord Housing Development Corporation, expressed the Corporation's preference for the Town's receipt of the \$1 million rather than the construction of two units. She indicated that the Town could get more use from the \$1 million than two units.

ARTICLE 13. BRUCE FREEMAN RAIL TRAIL—GRANT OF EASEMENT

At 8:52 pm Director of Planning & Land Management Marcia Rasmussen explained Article 13, which would authorize the Select Board to acquire the former railroad right-of-way to allow design and construction of the Bruce Freeman Rail Trail between the Acton town line and Commonwealth Ave. She explained that there are three state-owned parcels that will require permanent easements to allow for construction of the rail trail under this phase of the project. She noted that these easements mirror what was adopted for Phase 2C of the project. Ruth Lauer suggested that the map shown at the hearing be extended to show where the rail trail connects to Commonwealth Avenue.

Karlen Reed asked when the public hearing slides would be posted on the Town's web site. Mr. Whelan indicated that this would be done tomorrow.

ADJOURNMENT

At 8:56 pm, Mike Lawson made a motion that was seconded by Linda Escobedo to adjourn the Select Board hearing, which was unanimously **VOTED**. On a motion made by Gary Kleiman that was seconded by Matt Johnson, it was unanimously **VOTED** to adjourn the Planning Board public hearing. On a motion made Dean Banfield and duly seconded, it was unanimously **VOTED** to adjourn the Finance Committee public hearing.

Respectfully submitted,

Michael Lawson, Clerk

Documents Used or Referenced at Meeting:

- Warrant for the October 1, 2018 Special Town Meeting

Select Board Recommendations for October 1, 2018 Special Town Meeting

Article #	Article Name	Recommendations
1	Eminent Domain Settlement (214Y Main Street) – Additional Compensation	Affirmative Action in the amount of \$300,000 as printed in Warrant <i>(Unanimous)</i>
2	Eminent Domain Settlement (214Y Main Street, Concord & 37 Knox Trail, Acton) – Grant of Easement	Affirmative Action as printed in Warrant <i>(Unanimous)</i>
3	Eminent Domain Settlement (214Y Main Street) – Zoning Bylaw Amendment	Affirmative Action as printed in Warrant <i>(Unanimous)</i>
4	White Pond Associates, Inc. – Gift of Real Estate	Affirmative Action as printed in Warrant <i>(Unanimous)</i>
5	White Pond – Appropriation of Funds for Beach Operations	Affirmative Action in the amount of \$30,000 as printed in Warrant <i>(Unanimous)</i>
6	Concord-Carlisle Regional High School – Capital Improvements	Affirmative Action in the amount of \$100,000 as printed in Warrant <i>(Unanimous)</i>
7	Concord-Carlisle Regional High School – Capital Feasibility Study	Recommendation to be made at or before Special Town Meeting
8	Town Manager Search – Appropriation of Funds	Affirmative Action in the amount of \$20,000 as printed in Warrant <i>(Unanimous)</i>
9	Police Department – Fiscal Year 2019 Supplemental Appropriation	Affirmative Action in the amount of \$48,000 as printed in Warrant <i>(Unanimous)</i>
10	State Grant for Transit Services – Appropriation of Funds	Affirmative Action in the amount of \$3,210 as printed in Warrant <i>(Unanimous)</i>
11	Legal Services – Appropriation of Funds	Affirmative Action in the amount of \$100,000 as printed in Warrant <i>(Unanimous)</i>
12	Amendment of Phase II Black Birch Site Development and Use Proposal	Affirmative Action as printed in Warrant <i>(3 in favor, 1 abstain)</i>
13	Bruce Freeman Rail Trail – Grant Of Easement	Affirmative Action in the amount of \$25,000 as printed in Warrant <i>(Unanimous)</i>

**TOWN OF CONCORD
TOWN HOUSE
CONCORD, MA 01742**

**BULK RATE
U.S. POSTAGE PAID
PERMIT No. 51**

**RESIDENTIAL CUSTOMER
LOCAL 01742**

**WARRANT FOR SPECIAL TOWN MEETING
MONDAY, OCTOBER 1, 2018**

7:00 PM

CONCORD-CARLISLE REGIONAL HIGH SCHOOL AUDITORIUM
500 WALDEN STREET

**ADJOURNED SESSION (IF NECESSARY)
TUESDAY, OCTOBER 2, 2018**

IN CASE OF INCLEMENT WEATHER VISIT THE TOWN'S WEBSITE
AT WWW.CONCORDMA.GOV OR CALL 978 318-3006

**JOINT PUBLIC HEARING
WEDNESDAY, SEPTEMBER 12, 2018**

7:00 PM

TOWN HOUSE – HEARING ROOM

**FINANCE COMMITTEE, PLANNING BOARD
& SELECT BOARD**

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2	Eminent Domain Settlement (214Y Main St., Concord & 37 Knox Trail, Acton) – Grant of Easement	Select Board	SB	2
3	Eminent Domain Settlement (214Y Main St.) – Zoning Bylaw Amendment	Select Board	PB	2
4	White Pond Associates, Inc. – Gift of Real Estate	Select Board	FC	3
5	White Pond – Appropriation of Funds for Beach Operations	Select Board	FC	3
6	Concord Carlisle Regional High School – Capital Improvements	Concord Carlisle Regional School District	FC	4
7	Concord Carlisle Regional High School – Capital Feasibility Study	Concord Carlisle Regional School District	FC	4
8	Town Manager Search – Appropriation of Funds	Town Manager	FC	4
9	Police Department – FY19 Supplemental Appropriation	Town Manager	FC	4
10	State Grant for Transit Services – Appropriation of Funds	Town Manager	FC	5
11	Legal Services – Appropriation of Funds	Town Manager	FC	5
12	Amendment of Phase II Black Birch Site Development & Use Proposal	Select Board	PB	5
13	Bruce Freeman Rail Trail – Grant of Easement	Select Board	SB	6

PARKING – On-site parking, via the Walden Street entrance, is limited and carpooling is encouraged. Additional parking for those who need to be close will be marked. Overflow parking will be at Alcott School first and, if necessary, at the Concord District Court. Shuttle buses will be available to bring residents to and from the satellite parking.

CHILDCARE – Will be provided by Concord Recreation at the high school for children ages 2½ and older at a cost of \$5 per child per hour or \$25 for two or more children for the evening. Please call 978/369-6460 to reserve your child’s place.

SENIOR TRANSPORTATION – Seniors may arrange transportation with the Council on Aging office at 978/318-3020. Advance reservations are necessary. Rides will be available on a first come first served basis.

CHECK-IN – All voters who are registered to vote by Sept. 21, 2018 are eligible to participate at Town Meeting. Voters should check-in at the tables in the High School Cafeteria and pick up a Town Meeting ballot on each night of attendance. Only one ballot per voter per evening of attendance. Ballots are not transferrable. **Assisted Listening Devices** will be available at check in.

SEATING – Meeting will be held primarily in the auditorium with the Gymnasium reserved for overflow only if necessary. Accommodations for addressing the audience and voting will be provided by the deputy moderator. Viewing of the meeting is available in the Cafeteria but no voting will take place.

**THE COMMONWEALTH OF MASSACHUSETTS
WARRANT FOR SPECIAL TOWN MEETING
Monday, October 1, 2018**

Middlesex, ss.

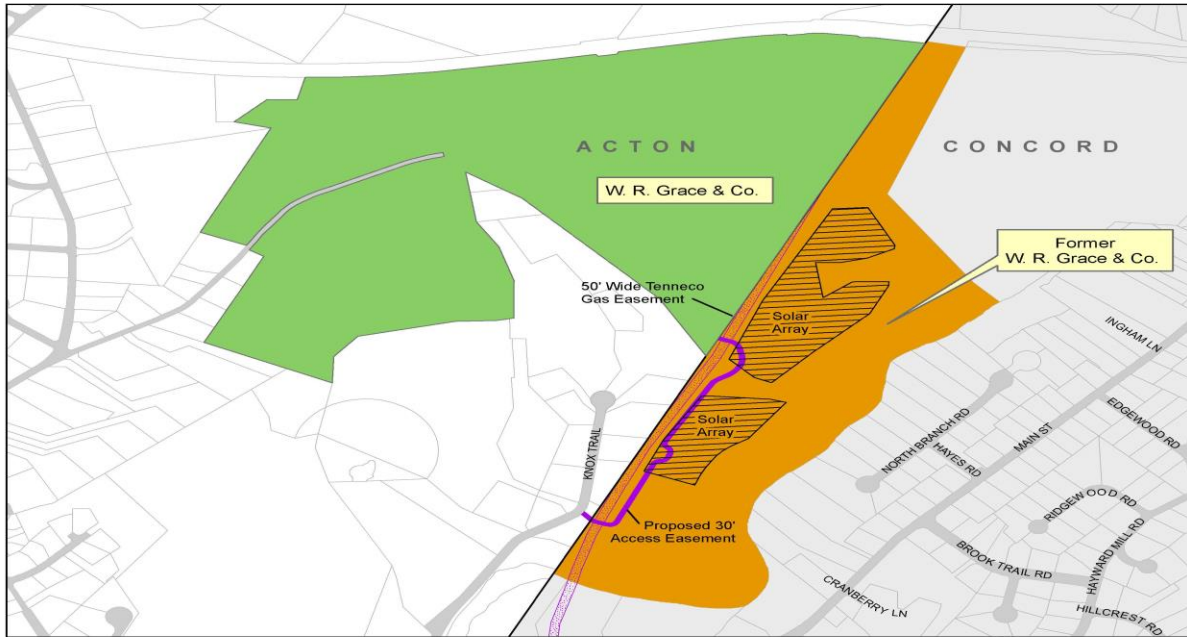
To any of the Constables of the Town of Concord, in said County,

In the name of the Commonwealth of Massachusetts, you are hereby required to notify the legal voters of said Town of Concord, qualified to vote at Town Meeting for the transaction of Town affairs, to meet at the Concord-Carlisle Regional High School at 500 Walden Street, in said town, on Monday, the first day of October, 2018, at 7:00 o'clock in the evening, by posting a printed copy of this Warrant by you attested, at the Town House and in at least one public location in each precinct in Concord. Further a copy thereof shall be mailed to every household at least fourteen days before the Town Meeting, then and there to act upon the following Articles:

EMINENT DOMAIN SETTLEMENT (214Y MAIN STREET) – ADDITIONAL COMPENSATION

ARTICLE 1 To determine whether the Town will vote to raise and appropriate, transfer from available funds, or authorize the Town Treasurer with the approval of the Select Board to borrow by the issuance of bonds or notes under the provisions of Chapter 44 of the Massachusetts General Laws, or any other authority, the sum of \$300,000, or any other sum, to be paid to W.R. Grace & Co. – Conn., as a settlement payment in compensation for the property at 214Y Main Street taken by eminent domain by the Town in August of 2015, said funds to be expended under the direction of the Town Manager, and further that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with the Massachusetts General Laws c. 44, § 20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount; or take any other action relative thereto.

Town Meeting voted under Article 36 of the 2012 Annual Town Meeting to authorize the Select Board to purchase the property at 214Y Main Street from the W.R. Grace Corporation, for solar power generation, wastewater treatment and other municipal purposes, for the sum of \$1,200,000, to be funded through a borrowing to be repaid equally by the Sewer Fund and the Electric Fund. The parties were unable to negotiate mutually-agreeable terms for sale of the property, and as a result, Town Meeting voted under Article 1 of the April 2015 Special Town Meeting to authorize the Select Board to take the property by eminent domain for the fair market value price of \$1,200,000, or any other fair market value of the appraisal. State law allows town government to take private property by eminent domain, provided doing so serves a municipal purpose. The property was taken in August of 2015 and the appraised value of \$800,000 was paid at that time. In the fall of 2017, W.R. Grace notified the Town that the company believed this appraisal did not account for the full value of the property and that the company was owed substantially more than had been paid by the Town. A settlement of this matter has been reached whereby the Town will pay an additional \$700,000 for the property, for a total compensation amount of \$1,500,000. For the purposes of funding the additional compensation, this article proposes that \$300,000 be authorized above the \$1,200,000 appropriation previously authorized by Town Meeting in 2012. The additional compensation to the company is one piece of a three-part settlement between the Town and W.R. Grace.



EMINENT DOMAIN SETTLEMENT (214Y MAIN STREET, CONCORD & 37 KNOX TRAIL, ACTON) – GRANT OF EASEMENT

ARTICLE 2 To determine whether the Town will vote to authorize the Select Board to grant or deed an easement, on terms and conditions acceptable to the Select Board, over a parcel of land owned by the Town at 214Y Main Street, Concord and 37 Knox Trail, Acton, MA for the purposes of providing and maintaining emergency access to W.R. Grace & Co. – Conn., and its successors and assigns (collectively “Grace”), to and from Grace’s property in Acton; or take any other action relative thereto.

This Article authorizes the Select Board to deed an easement over land the Town took by eminent domain from W.R. Grace in 2015, to be used for emergency access only, to connect property the company owns in Acton to Knox Trail in Acton. This article is one piece of a three-part eminent domain settlement between the Town and W.R. Grace.

EMINENT DOMAIN SETTLEMENT (214Y MAIN STREET) – ZONING BYLAW AMENDMENT

ARTICLE 3 To determine whether the Town will vote to amend the **Zoning Bylaw Section 4.4.1 Concord Municipal Use** to (i) add “(1)” before the words “the general use and welfare of the Town”; (ii) replace the period after the words “within the Town” with a semicolon (;); and (iii) add at the end of the section “or (2) emergency vehicular or pedestrian access over land owned by the Town to access an adjacent property.” so that the section reads as follows (changes are shown below in bold for reference only) - or take any other action relative thereto.

4.4.1 *Town of Concord Municipal Use:* use of any building, facility and/or area owned or leased by the Town of Concord for **(1)** the general use and welfare of the Town, its inhabitants or businesses located within the Town; **or (2) emergency vehicular or pedestrian access over land owned by the Town to access an adjacent property.**

This Article makes a zoning change to allow the use of the easement proposed under Article 2. It would permit access over Town-owned land to an adjacent parcel with the Town’s permission. This article is one piece of a three-part eminent domain settlement between the Town and W.R. Grace.

WHITE POND ASSOCIATES, INC. – GIFT OF REAL ESTATE

ARTICLE 4 To determine whether the Town will vote to authorize the Select Board to accept from White Pond Associates Inc. the gift of the fee, easement or other property interests in, on, over, across, under and along all or any portion of Lot A-1, Lot B-1, Lot C-1 and Parcel X all as shown on a plan entitled “Plan of Land in Concord, Massachusetts,” prepared for White Pond Associates Inc. dated August 2, 2018 by Perley Engineering LLC, containing a total of 18.14 acres, more or less, with improvements thereon (herein the “White Pond Property”) subject to a perpetual restriction limiting the use of the White Pond Property to recreation, open space and/or conservation purposes under such terms and conditions as the Select Board and White Pond Associates Inc. mutually determine; or take any other action relative thereto.



White Pond Associates, Inc. owns 18.14± acres located off Plainfield Road, Power Mill Road and Seymour Street. The existing principal use of this property is community recreational swimming. White Pond Associates Inc. seeks to work with the Select Board to ensure that the White Pond Property will continue to be used for recreational swimming and other uses compatible with preserving White Pond.

WHITE POND – APPROPRIATION OF FUNDS FOR BEACH OPERATIONS

ARTICLE 5 To determine whether the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$30,000, or any other sum, to be expended under the direction of the Town Manager, for the costs of operating a public bathing beach at White Pond, including staffing, equipment, materials, and consulting services related to operating a public bathing beach facility, and other costs necessary or incidental thereto; or take any other action relative thereto.

In order to begin operating a public bathing beach at White Pond in the spring of 2019, it will be necessary to provide a preliminary budget for the hiring of staff, training, purchasing of supplies and other expenses related to operating the bathing beach beginning on Memorial Day weekend of 2019. An annual budget request will be submitted for consideration at the April 2019 Annual Town Meeting. This preliminary funding will help get the bathing beach up and running before the beginning of Fiscal Year 2020.

CONCORD-CARLISLE REGIONAL HIGH SCHOOL – CAPITAL IMPROVEMENTS

ARTICLE 6 To determine whether the Town will vote to approve \$100,000 of debt, or any other sum, authorized by the Concord-Carlisle Regional School Committee, for the purpose of making capital improvements at Concord-Carlisle Regional High School, including (i) drainage improvements at Lower Field, (ii) spray booth duct work, (iii) emergency shower repairs, and (iv) an ambulance cut to improve access to the nurse's office, and for the payment of all costs incidental and related thereto, which amount shall be expended at the direction of the Concord-Carlisle Regional School Committee; or take any other action relative thereto.

This Article provides Concord's share of the cost for various capital improvements to the Concord-Carlisle Regional High School. The costs to be assessed annually over a period of years consistent with the term of bonds to be issued by the district with debt service expected to commence in Fiscal Year 2020. The debt issued under this article has not been excluded under the provisions of Massachusetts General Law c.52 §21(C), Proposition 2 ½.

CONCORD-CARLISLE REGIONAL HIGH SCHOOL – CAPITAL FEASIBILITY STUDY

ARTICLE 7 To determine whether the Town will vote to approve \$200,000 of debt, or any other sum, authorized by the Concord-Carlisle Regional School Committee, for the purposes of conducting a design and engineering study of the Concord-Carlisle High School building and campus, including cost analysis and feasibility of potential capital improvements, said study to be undertaken at the direction of the Concord-Carlisle Regional School Committee; or take any other action relative thereto.

This Article provides Concord's share of the cost for a design and engineering study of the Concord-Carlisle Regional High School. The study will assess various capital improvements, including cost analysis and feasibility of (i) additional parking, (ii) potential uses for landfill area, (iii) roadway and lighting improvements, (iv) field improvements including concessions and restrooms, and other items as recommended by the School Committee and Superintendent. The costs will be assessed annually over a period of years consistent with the term of bonds to be issued by the district with debt service expected to commence in Fiscal Year 2020. The debt issued under his article has not been excluded under the provisions of Massachusetts General Law c.52 §21(C), Proposition 2 ½.

TOWN MANAGER SEARCH – APPROPRIATION OF FUNDS

ARTICLE 8 To determine whether the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$20,000, or any other sum, to be expended under the direction of the Town Manager, for the cost of hiring a professional recruiting firm, and advertising and other costs associated with recruiting a new Town Manager; or take any other action relative thereto.

This article would provide funding to allow the Town to hire a professional search firm to help recruit a qualified candidate to replace the current Town Manager, who plans to retire on or before July 1, 2019.

POLICE DEPARTMENT – FISCAL YEAR 2019 SUPPLEMENTAL APPROPRIATION

ARTICLE 9 To determine whether the Town will vote to transfer the sum of \$48,000, or any other sum, from the Emergency Response Stabilization Fund to be added to the amounts previously appropriated under Item No. 11, Police Department, of Article 7 of the 2018 Annual Town Meeting, said sum to be expended under the direction of the Town Manager; or take any other action relative thereto.

This Article would amend the Fiscal Year 2019 budget by transferring \$48,000 to the Police Department from the Emergency Response Stabilization Fund to be combined with gift funds to pay the salary of one additional School Resource Officer within the Concord Public School System.

STATE GRANT FOR TRANSIT SERVICES – APPROPRIATION OF FUNDS

ARTICLE 10 To determine whether the Town will vote to appropriate from Transportation Network Surcharge Fees, the sum of \$3,210, or any other sum, to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the town, including but not limited to, the complete streets program established pursuant to Massachusetts General Laws c. 90I, § 1, and other programs that support alternative modes of transportation; or take any other action relative thereto.

Chapter 187 of the Acts of 2016 established a Commonwealth Transportation Infrastructure Fund. As required, each Transportation Network Company submits to the Department of Public Utilities the number of rides from the previous calendar year that originated within each city or town and a per-ride assessment of \$0.20, which is credited to the Fund. The Town received an allocation from the Commonwealth of Massachusetts in the amount of \$3,210, based on the estimated number of commuters believed to have passed through Concord while commuting to work during Fiscal Year 2018. These funds may only be used to provide transportation services in the community and must be appropriated by Town Meeting in order to be expended.

LEGAL SERVICES – APPROPRIATION OF FUNDS

ARTICLE 11 To determine whether the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$100,000, or any other sum, to be added to the funds appropriated under Article 7, Item 2 Legal Services of the 2018 Annual Town Meeting, said sum to be expended under the direction of the Town Manager; or take any other action relative thereto.

The Town is currently involved in several litigation and collective bargaining matters that require expenditures for legal services above the \$250,000 annual allocation of funds for Legal Services. This supplemental appropriation will cover these higher costs without the need to fully utilize the Reserve Fund of the annual budget (Article 7, Item 32 of the 2018 Annual Town Meeting).

AMENDMENT OF PHASE II BLACK BIRCH SITE DEVELOPMENT AND USE PROPOSAL

ARTICLE 12 To determine whether the Town will vote to approve an amendment of the Phase II Black Birch Alternative Planned Residential Development (PRD) Preliminary Site Development and Use Proposal for Lot 4A and Parcel A Forest Ridge Road dated September 12, 2016, as further amended through March 14, 2017 (herein the "Phase II Black Birch Site Development and Use Proposal"), which Phase II Black Birch Site Development and Use Proposal was approved under Article 42 of the 2017 Annual Town Meeting pursuant to Section 10.3.4 of the Zoning Bylaw, by adding the following standard to the Phase II Black Birch Site Development and Use Proposal - or take any other action relative thereto.

"4. As an alternative to the provision of two (2) affordable units as set forth in Paragraph 3 and in exchange for approval from the Town to complete the sixteen (16) units in Black Birch Phase II as market-rate units, ABODE agrees to donate one million dollars (\$1,000,000.00) to the Town, or any other entity designated and approved by the Select Board, to be placed in a fund restricted to affordable housing purposes subject to terms and conditions to be established by the Board of Appeals and approved by the Select Board based upon a determination by both Boards that such funds will enhance affordable housing opportunities in the Town of Concord."

The 2017 Annual Town Meeting approved (Article 42) the Preliminary Site Development and Use Proposal for Black Birch II Alternative PRD that included a provision that two of the sixteen units would be sold as affordable units to persons earning not more than 80% of area median income. The intent was that the units would be included in the Town's Subsidized Housing Inventory (SHI) which measures the Town's compliance with the Massachusetts General Laws c. 40B goal of 10% affordable housing. A recent State decision regarding age restricted units, however, means that the proposed Black Birch units may not count in the SHI. The Select Board and Black Birch II have agreed to put before the voters and the Planning Board an amendment to the Site Development and Use Proposal which adds the option for the Town to receive a \$1,000,000 contribution from the Black Birch II in lieu of providing the units on site. Receipt of the funds would allow the Town to "buy down" existing units that would count in the SHI as well as provide additional options toward the expansion of the Town's affordable housing inventory.

BRUCE FREEMAN RAIL TRAIL – GRANT OF EASEMENT

ARTICLE 13 To determine whether the Town will vote to authorize the Select Board, for purposes of establishing, constructing, operating and maintaining an improved multi-use rail trail for non-motorized transportation, open space and recreation purposes and for all other purposes for which rail trails are now or hereafter may be used in the Commonwealth, to acquire by purchase, gift, eminent domain or otherwise fee, easement, leasehold, license or other real property interests in, on, over, across, under and along (a) all or any portion of the land, premises, easements, rights-of-way and/or other rights in Concord comprising the former Lowell Secondary Track railroad right-of-way acquired by the Commonwealth of Massachusetts, (acting through its former Executive Office of Transportation and Construction) by deeds dated April 28, and November 29, 1982, and recorded in the Middlesex South District Registry of Deeds at Book 14609, pages 302-317 and Book 14836, pages 507-512, and (b) abutting and underlying properties as necessary for clearing title to said railroad right-of-way, laying out an improved multi-use rail trail in that right-of-way and within associated easement, and providing access to the rail trail area for construction, maintenance and repair purposes, on such terms and conditions as the Select Board may determine, and further to see if the Town will raise and appropriate or transfer from available funds the sum of \$25,000, or any other sum, or accept gifts for these purposes, or take any other action relative thereto.

This Article authorizes the Select Board to acquire the former railroad right-of-way to allow design and construction of the Bruce Freeman Rail Trail between the Acton town line and Commonwealth Avenue (the bridge over Route 2 connecting Phase 2A in Acton to the parking area located off Commonwealth Avenue at the end of Phase 2C).

Hereof fail not and make due return of this Warrant with your doings thereon, to the Town Clerk, at or before the time of said meeting aforesaid.

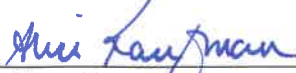
Given under our hands this 13th day of August in the year two thousand-eighteen.



Thomas McKean



Jane Hotchkiss



Alice Kaufman



Michael Lawson



Linda Escobedo

SELECT BOARD

Commonwealth of Massachusetts Middlesex, ss.

Concord _____
Date

By virtue of this warrant I have notified the legal voters of the Town of Concord to meet at the times and places and for the purposes within named as directed:

Constable of Concord

SPECIAL TOWN MEETING VOTER REGISTRATION INFORMATION

The deadline for unregistered residents to register to vote at the Special Town Meeting is:

Friday, September 21, 2018

In addition to regular office hours, a special evening registration session will be held on Friday, September 21, 2018 until 8:00 PM at the Town Clerk's Office, 22 Monument Square for residents who are currently not registered voters in Concord.

Voter registration may be done online, by mail or in person.

Download a mail-in registration form by visiting the Town's Election & Voting web page
concordma.gov/elections-voting

Call the Town Clerk's Office at 978/318-3080 to have the form mailed to you.

Visit the Town Clerk's office at the Town House to register in person
22 Monument Square
Mondays-Fridays, 8:30 am-4:30 pm