

**TOWN OF CONCORD
SELECT BOARD
AGENDA
July 27, 2020
4:00PM
VIDEO CONFERENCE CALL**

Join Zoom Meeting

<https://us02web.zoom.us/j/84092395810?pwd=TnMyWmprWHBlA21CzdQM0EvWVVFZz09>

Meeting ID: 840 9239 5810

Password: 865209

One tap mobile

+16465588656,,84092395810# US (New York)

Dial by your location

877 853 5257 US Toll-free

888 475 4499 US Toll-free

Meeting ID: 840 9239 5810

Find your local number: <https://us02web.zoom.us/u/kcwFtQro3l>

1.	Call to Order
2.	Consent Agenda <ul style="list-style-type: none">• Town Accountants Warrants• Minutes to approve: June 29, 2020
3.	Town Manager Update
4.	Chair's Remarks
5.	Public Hearing: Agreement between the Town and Library Corporation
6.	Approve New Tour Guide Applications
7.	Approve Tour Guide Renewal Applications
8.	FY20 Year End Transfer
9.	Letter of Support for Concord's Transfer Fee Home Rule Petition
10.	Committee Nominations
11.	Committee Appointments: Dennis Fiori of 309 Strawberry Hill Road to the Historic Districts Commission for a term to expire on April 30, 2023.
12.	Committee Liaison Reports
13.	Miscellaneous Correspondence
14.	Public Comments
15.	Adjourn

AGREEMENT

The Town of Concord is a Massachusetts municipal corporation chartered in 1635 with its principal place of business at the Town House, 22 Monument Square, Concord, Massachusetts 01742 (the “Town”).

The Concord Free Public Library Corporation is a Massachusetts charitable corporation created by Chapter 99 of the Acts of 1873 which provided that “Ebenezer R. Hoar, Grindall Reynolds, George M. Brooks, George Keyes and Henry F. Smith, and their successors, are made a corporation by the name of the Concord Free Public Library for the statutory purpose of forming and maintaining a public library in Concord. The Town transferred the Town library to the Corporation on October 1, 1873 pursuant to the vote of the Town taken on March 31, 1873...for the use and benefit of the citizens of the town.” The Act also authorized the Town to fund the expense of maintaining and staffing the Library. The Corporation has a principal place of business at 129 Main Street, Concord, Massachusetts 01742 and also owns the property at 151 Main Street, Concord and provides the Fowler Branch Library in West Concord.

The Library Committee appointed by the Select Board in accordance with Section 2 of the Town Charter functions in accordance with its charge¹ as the same may be amended from time to time.

This Agreement sets out the relationship between the Corporation and the Town relating to the Library.

¹ Currently the Library Committee consists of seven members appointed by the Select Board for staggered three-year terms to work with the Library Director to achieve specific goals in support of the Library.

SECTION 1. LIBRARY MISSION

The Library is a joint resource of the Town and the Corporation herein (the “Library”). The mission of the Library is to serve the Concord Community as a primary source of information and ideas for educational, intellectual, business and recreational pursuits. The Library’s mission is to inspire lifelong learning and to actively promote personal enrichment by connecting community members to information, ideas, culture, unique historical resources, and each other in a tradition of innovation and excellence. The Corporation is responsible for providing the buildings, grounds and facilities to support and assist the Library’s mission and its Strategic Plan as well as the oversight, maintenance, preservation, protection, improvement and expansion of the buildings, grounds, and Special Collections (as hereinafter defined in Section 6 (3)), and other property of the Library owned by the Corporation.

To accomplish the Library’s mission, the Library shall:

1. Provide, in an accessible, efficient and attractive manner, a collection of informational and recreational materials which responds to the needs of the Concord community;
2. Maintain referral capabilities through a knowledge of available interlibrary and interagency resources including internet and on-line databases;
3. Employ persons professionally skilled in supplying information and ideas through books and other media and through special programs and exhibits; and
4. Make the Concord community aware of the services the Library provides.

SECTION 2. LIBRARY POLICIES

To carry out the mission of the Library the Town, (acting through the Town Manager, in coordination with the Library Committee) and the Corporation may, from time to time, make decisions and establish procedures affecting each entity’s respective area of responsibility.

Decisions and procedures of the Town are those affecting the operation and staffing of the Library and the expenditure of Town resources for Library purposes. Decisions and procedures

of the Corporation are those affecting (a) the use and availability of buildings, grounds, furnishings, Special Collections and other materials or items owned by or under the care, custody and control of the Corporation and (b) the expenditure of Corporation funds for Library purposes.

The Corporation and the Town may each enact policies relating to each entity's area of responsibility but policies of the Corporation that may affect operation and staffing of the Library and Town policies that may affect those areas of responsibility of the Corporation shall not be inconsistent with one another. Inconsistencies, if any, shall be resolved in a spirit of mutual cooperation and collaboration between the Town and the Corporation.

SECTION 3. TOWN AND CORPORATION RESPONSIBILITY

The Town may make decisions and establish procedures relating to its areas of responsibility including the following:

1. Hours of Library operation;
2. Availability of Library services;
3. Setting fines and fees;
4. Acquisition and disposition of Town owned materials; and
5. Setting periods and limitations on circulating materials.

The Corporation may make decisions and establish procedures relating to its areas of responsibility including the following:

1. Budgeting Corporation funds for the maintenance, improvement, insurance, and security of the grounds, buildings, physical plant, equipment, furnishings, Special Collections, and other tangible personal property belonging to or on loan to or controlled by the Corporation;
2. Regulating the use and availability of its buildings, grounds, and Special Collections for events, programs, meetings, and exhibitions;
3. Investment and distribution practices governing the Corporation's endowment, gifts

4. Fund raising in support of Corporation purposes, including annual appeals, capital campaigns, fund-raising events, grants from foundations or government authorities, bequests and planned giving, and such other fundraising tools and support services as the Corporation in its discretion may employ;
5. Awarding scholarships including those required by restricted gifts; and
6. Use of all vault space in Library buildings subject to Section 6.2 (iv) and (v) hereof.

SECTION 4. ADMINISTRATION

The Library Director has primary responsibility for the operations of the Library. The Library Director shall attend the Corporation's monthly meetings and report on Library operations and staff activities. The Library Director shall also support the functions of the Corporation and the policies and procedures related to its areas of responsibility and shall also be responsible for implementing the policies and procedures of the Town and those of the Corporation developed pursuant hereto.

The duties of the Library Director, as delegated by the Town Manager, may include but are not limited to the following:

1. Overall supervision of Town Library staff;
2. Administering Town finance policies relating to Town Library employees;
3. Administering the use of Town funds as budgeted for the Library;
4. Administering the use of Corporation funds as budgeted for Library supplies, materials, equipment and services;
5. Support of the Corporation's activities and responsibilities;
6. Selection and removal of Town owned books and materials;
7. Allocation of space within the Library buildings for Library purposes in coordination with the Corporation;
8. Emergency closing of Library buildings in coordination with the office of the Town Manager;

9. Facilitating communications, as appropriate, between and among Library staff, Town Staff, the Corporation, Library Committee, the Friends of the Library, and Library volunteers and regularly informing the Town Manager and the Corporation as to Library matters;
10. Scheduling special events and programs in coordination with the Corporation and the Friends of the Library;
11. Coordinating the use of the Library rooms by community groups in accordance with Library room use policies as posted on the Library website and the development of community outreach and awareness programs;
12. Establishing new, or terminating existing, services, or programs in coordination with the Corporation;
13. Establishing and administering procedures in coordination with the Town Manager and the Corporation providing for the safety and security of Library employees and patrons; and
14. Coordinating with the Corporation as to the content of the Library web site and inclusion therein of matters related to the Corporation's responsibilities.

SECTION 5. OWNERSHIP OF PROPERTY

Title to property used by the Library is and shall be owned as follows:

Owned by the Corporation

Land and landscaping; buildings; furniture, shelving, fixtures; books, art, musical instruments; computers, printers, software and other materials or equipment or systems purchased with funds of the Corporation or given thereto; Special Collections; materials owned, given to or purchased by the Corporation; and Endowment and other funds given to or held by the Corporation.

Owned by the Town

All books, periodicals, electronic media, shelving, equipment, furniture, electronic and data processing equipment, software and other materials or equipment or systems purchased with Town funds.

SECTION 6. DIRECTOR, CURATOR, SPECIAL COLLECTIONS, VAULT SPACE

(1) The Library Director is a Town employee appointed by the Town Manager and serves under the direction of the Town Manager. The Town Manager shall appoint and evaluate the Library Director in a manner consistent with Town Personnel policies and procedures. In appointing or terminating a Library Director the Town Manager shall seek the opinion of the Corporation before taking such action. In evaluating the performance of the Library Director, the Town Manager shall annually seek or receive (orally or in writing) the opinion of the Corporation. The Corporation shall appoint a representative to provide input on the Library Director's performance.

(2) The Curator is a Town employee appointed by the Town Manager and serves under the direction of the Library Director in coordination with the Corporation and has the following responsibilities:

(i) To serve along with the Library Director on the Corporation's Special Collections Committee which meets monthly at the discretion of the Corporation for various purposes including developing policies in respect of Special Collections, planning exhibitions, events, and programs; advising on acquisitions, acceptance of gifts and collaboration with other entities including libraries and museums; and advising on budgeting for Special Collections and related activities;

(ii) To manage use of the Main Library Art Gallery, and the Community Meeting room in the Fowler Branch Library and such other space as may be

designated from time to time for Special Collections exhibitions (“Exhibition Space”). The Curator will be a member of any committee created to manage the Exhibition Space and shall give priority to Special Collections exhibits in said Exhibition Space:

(iii) To manage Special Collections in accordance with the Corporation’s goal of making it fully available to the public and as a research resource to scholars subject to reasonable regulations consistent with practices of similar institutions;

(iv) To exercise care, custody and control, in concert with the Town Archivist, of Town records deposited by the Town Clerk in the vault of the Main Library building provided that such Town records will be non-current documents of historic value (“Historic Town Records”) and shall not occupy more than 50% of the vault in the Main Library building which will also house Special Collections in vault space not occupied by Historic Town Records; and

(v) To develop security procedures for access to all materials, including Historic Town Records and Special Collections, in all vault space in the Corporation’s Library buildings including such additional vault space that in future may be constructed by the Corporation.

The Curator shall not be responsible to the Corporation for damage or loss to Special Collections when taking the same standard of care as the Curator uses in managing other materials of the Library or Town records. The Corporation shall remain fully responsible for damage or loss to Special Collections in the event that the Corporation does not follow the Curator’s recommended security procedures or the Curator’s recommendations relating to public access to Special Collections.

(3) For the purposes of this Agreement the term “Special Collections” shall mean all those works of art, sculpture, musical instruments, manuscripts, letters, books, documents, photographs, broadsides, ephemera, or other materials (including without limitation those works described in written appraisals prepared for the

Corporation from time to time by Skinner Appraisal Services or in any other qualified appraisal commissioned by the Corporation) and objects such as weather vanes and surveying equipment, at any time owned, given to, purchased by or on loan to or under the care, custody and control of the Corporation.

(4) In appointing or terminating the Curator the Library Director shall seek the opinion of the Corporation President before recommending such action to the Town Manager. In evaluating the performance of the Curator the Library Director shall annually seek or receive (orally or in writing) the opinion of the Corporation or its appointed representative for such purpose.

All Town Library employees are appointed by the Town Manager and are supervised and evaluated by the Library Director except as specifically set forth herein. Library staff shall support the work of the Corporation. In this connection, the Corporation recognizes and agrees that Trustees shall not give orders or instruction to the Town Library staff except as permitted by the Library Director or the Town Manager and that all Town Library employees are subject to Town Administrative Policies and State Ethics requirements and are subject to the terms of a Collective Bargaining Agreement with the Town.

SECTION 7. LIBRARY MAINTENANCE

The Corporation and Town agree that there is mutual benefit in developing a Memorandum of Understanding (MOU) specifically for the maintenance of the Library's buildings and structures. This MOU will define capital improvements, which will remain the responsibility of the Corporation; identify any contracts for maintenance services between the Corporation and vendors; and set forth conditions for the Town to provide maintenance services for the Library's buildings and structures. Such conditions may include, but are not limited to, reporting responsibilities as well as the level of financial contribution to the Town from the Corporation to offset the Town's costs related to said maintenance labor and materials costs. This MOU shall be executed on or before December 31, 2020.

SECTION 8. BUDGETING

The Director shall initiate the Library portion of the annual Town budget, which shall provide for the staffing and operating expenses of the Library as herein set forth.

The Corporation shall annually prepare a budget, which shall provide for the expenses of the Library that are its responsibility as herein set forth and shall annually provide a copy of its budget and five year capital plan on or before December 31 and its audited financial statement to the Town Manager as soon as practicable.

SECTION 9. LIBRARY REVENUE SOURCES

Library expenses to be paid for by the Town shall be funded in accordance with the Town Manager's Budget as approved by Town Meeting. Library expenses to be paid for by the Corporation shall be funded out of gifts and bequests made to the Corporation, investment income, annual giving or capital contributions as determined by the Corporation. Gifts including bequests made to the Concord Free Public Library or to the Concord Free Public Library Corporation shall be deemed to be gifts to the Corporation. Gifts to the Town of Concord for the benefit of the Library shall be deemed gifts to the Town. Any ambiguity shall be resolved in a spirit of mutual cooperation and collaboration between the Town and the Corporation. Income accruing from fines and fees shall belong to the Town so long as fines and fees are assessed. Income from copy machines or other equipment or services paid for by the Corporation shall belong to the Corporation. Gifts made to the Corporation shall be treated as items of income or increase in capital in accordance with applicable accounting principles, and used as determined by the Corporation subject to applicable gifting conditions and applicable statutory requirements. Such gifts and other income of the Corporation in no way shall relieve the Town's obligation to fund the operation and staffing of the Library.

SECTION 10. LIBRARY EXPENSES AND RENOVATIONS

All operating expenses of the Library, (e.g., staff and custodial salaries, books, periodicals and electronic media purchases, utilities, office supplies and janitorial, interior cleaning and

maintenance services) shall be borne by the Town except as may be otherwise agreed by the Corporation and the Town Facilities Director as may be set forth in the MOU to be developed pursuant to the Section 7 of this Agreement. All capital expenses (e.g., building maintenance and repairs; improvements, renovation, and expansion; equipment, furniture, fixtures, and shelving purchases; and grounds maintenance) and Corporation expenses (e.g., building, contents and fine arts insurance; fundraising; funds management; administration; accounting; and other support services retained by the Corporation) shall be borne by the Corporation. The Corporation also shall make available to the Library annually at least \$75,000 for the purchase of books and media.

No renovations or expansion of library facilities that may increase Library staffing or materially impact the Town's operating costs shall be undertaken by the Corporation without consultation among the Library Committee, the Library Director, and the Town Manager in a spirit of mutual cooperation and collaboration and mindful of community goals as set forth in the Town Long Range Plan. The Town may, subject to applicable law and the approval of the Corporation, provide funds for any proposed Library renovation or expansion.

SECTION 11. COMMUNICATIONS

- (a) The Library shall develop a Strategic Plan for the Library that shall be initiated by the Library Director and the Library Committee and shall seek input from the Corporation, the Friends of the Library and include public participation.
- (b) The Library Director shall propose programs for professional development as well as events for annual recognition of Town Library staff employees and volunteers. Recognition events shall include participation of the Corporation, the Library Committee, and the Friends of the Library. The Corporation may contribute, as appropriate, to the cost of such programs and events.

- (c) From time to time during each year the Library Director shall provide opportunities for Library staff department heads to attend regularly scheduled Board meetings of the Corporation's Trustees to acquaint the Trustees with their current Library activities.
- (d) The President of the Corporation and the Town Manager shall meet at least twice annually to discuss the status of library operations and the efficacy of this Agreement.

SECTION 12. GENERAL PROVISIONS

This document contains the entire agreement of the parties in respect of the subject matter hereof and supersedes in its entirety the agreement between the parties executed on June 22, 2009.

This Agreement may be amended or terminated only by mutual written agreement of the parties specifically referencing this document and executed by an authorized representative thereof.

Each part hereby warrants and represents to the other that the individual who is signing this agreement has been duly authorized to execute this document and to agree to the matters set forth herein.

IN WITNESS WHEREOF the parties hereto have executed this agreement this _____ day of _____, 2020.

TOWN OF CONCORD

By: _____

Town Manager

CONCORD FREE PUBLIC LIBRARY CORPORATION

By: _____

President

RE: Agreement between the Town and the Library Corporation

The relationship between the Town and the Library Corporation is defined in the current agreement between the Library Corporation and the Town dated June 22, 2009 (“Current Town Corporation Agreement”) that is attached for reference.

Because the relationship between the Corporation and the Town has evolved over the past ten years it seems appropriate that the current agreement be updated.

A revised draft agreement (“Agreement”) defining the relationship between the Town of Concord (“Town”) and the Concord Free Public Library Corporation (“Library Corporation”) has been prepared for public comment and this draft is attached to this memorandum. (“Revised Town Corporation Agreement”).

Library Background Information

The Library Corporation was created by Chapter 99 of the Acts of 1873 which provided that “Ebenezer R. Hoar, Grindall Reynolds, George M. Brooks, George Keyes and Henry F. Smith, and their successors, are made a corporation by the name of the Concord Free Public Library” for the statutory purpose of forming and maintaining a public library in Concord. The Town transferred the Town library to the Corporation on October 1, 1873 pursuant to the vote of the Town taken on March 31, 1873, “for the use and benefit of the citizens of the town.”

The Library Corporation today operates as a Massachusetts 501 (c) (3) charitable corporation. It annually files reports of its operations with the Commonwealth’s Office of the Attorney General that includes its IRS form 990 tax return. It also shares its audited financial report and annual budget with the Town.

The founding documents provided that, “so long as the [Library] corporation allowed the inhabitants of the town of Concord free use of the library under reasonable regulations” the Town is authorized to provide funds for maintenance of the Library and to pay the salary of a librarian and of necessary assistants.”

Following this long standing statutory authorization, funding for library staff and certain library expenses are incorporated into the Town’s annual operating budget prepared by the Town Manager, reviewed by the Finance Committee, and approved by Town Meeting.

However, all capital expenses (e.g., building improvements, renovations, expansions and repairs) grounds maintenance, insurance, administration and other expenses related to the Main Library, the Fowler Library and the Library Special Collections are borne by the Library Corporation relieving the Town of this financial burden.

Major capital projects undertaken and funded substantially by the Library Corporation have included the comprehensive renovation and expansion of the Main Library spaces completed in 2005 and the 2012 renovation and expansion of the Fowler Branch that added a children's room, renovated basement area to provide stacks for circulating fiction books, a community conference room, additional patron seating areas and a climate controlled area for use by Special Collections.

The Library Corporation is currently moving forward with an expansion of the Main Library and has mounted a capital campaign to fund this project.

The Library Corporation is funded through the generosity of the people of Concord, including the Friends of the Concord Free Public Library. This generosity has facilitated the ability to provide Concord with a world-class library whose doors are open to the citizens of Concord and the wider global community interested in Concord's unique history, culture and heritage.

Revised Town Corporation Agreement

The Revised Town Corporation Agreement builds on the Current Town Corporation Agreement. Its intent is to expand and better define the relationship between the Town and the Library Corporation. Recognizing that there are many editorial, formatting and wording changes that are not addressed herein there follows a description of the more important changes between the Agreements. Please note that the Current Town Agreement's sections are not numbered. *The Revised Town Corporation Agreement's Section numbers tends to follow the same subject matter in the same order but adds new matter such as in Sections 7 and 11.*

Introduction

This part of the Agreement provides more historical information relating to the Library formation and updates footnote 1.

Section 1 Library Mission

This Section updates the Library's Mission and the Library Corporation's relation thereto.

Section 2 Library Policies

This Section more clearly defines the policy areas for which each entity is responsible and maintains the principle that policies of the Town and the Library are not to be inconsistent with one another.

Section 3 Town and Corporation Responsibility

This Section more clearly defines the areas (such as hours of Library operation, setting fines; budgeting, fund raising) for which each entity is responsible.

Section 4 Administration

This Section defines the Library Director's administrative responsibilities and requires the Library Director to attend the Corporation's monthly meetings and report on Library operations. This allows both the Library Director and the Library Corporation to be current with the activities and plans of the other so as to (a) coordinate the same and (b) inform the Town Manager and Library Committee as to matters with which the Library Corporation is dealing that may affect Library operations.

Section 5 Ownership of Property

This Section defines which entity owns what property that comprises the "Library".

Section 6 Director, Curator, Special Collections, Vault Space

This Section has been substantially revised and more explicitly defines among other matters, the role of the Town Manager, the Library Corporation, the Curator, responsibilities re Special Collections, use of the Library vault space, the Library Corporation's relation to Library staff and responsibilities re the performance evaluation of the Library Director and Curator.

Section 7 Library Maintenance

In recent times the Library Corporation has found that the Town has certain capabilities that can help with the maintenance of Library facilities at a reimbursed cost lower than outside vendors. This Section is a "place holder" to allow the Town and the Corporation to explore synergies for more efficient and lower cost ways of maintaining the Library physical plant.

Section 8 Budgeting

This Section now requires that the Library Corporation, in addition to providing the Town with a copy of its annual budget and audited financials, to also provide the Town with a five-year capital plan.

Section 9 Library Revenue Sources

This Section identifies revenue sources for Town and Library Corporation funds and now provides a mechanism to address ambiguities in bequests and gifts for “for Library purposes”.

Section 10 Library Expenses and Renovations

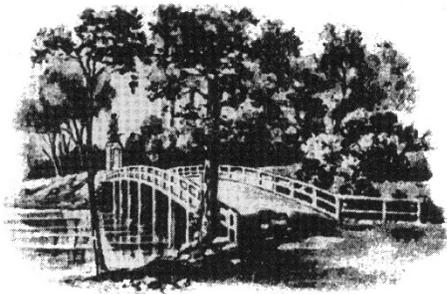
This Section determines which entity has responsibility for operating and capital expenses. Importantly, the Revised Town Corporation Agreement carries over the requirement that no renovations or expansion of library facilities that may increase Library staffing or materially impact the Town’s operating costs shall be undertaken by the Corporation without consultation with the Town and now specifically lists the Library Committee in addition to the Library Director and the Town Manager. It also requires that deliberations be mindful “of community goals as set forth in the Town Long Range Plan”. In this connection the Library Corporation, as required by the Current Town Corporation Agreement, before purchasing 151 Main Street consulted with the Town Manager and Library Director and Town staff before moving forward. This Section increases the minimum required annual Library Contribution for books and materials from \$50,000 to \$ 75,000 although the Library Corporation has in recent years provided \$125,000 annually to the Library for this purpose.

Section 11 Communications

This is a new Section and was placed into the Revised Town Corporation Agreement to recognize the need for communication among the major Town parties involved with the Library. It includes a provision (subsection 11 (d)) that provides for regular communication between the Library Corporation President and the Town Manager to discuss library operations and whether the Revised Town Corporation Agreement is working as intended.

Section 12 General Provisions

This Section is essentially unchanged



OLD NORTH BRIDGE

TOWN OF CONCORD

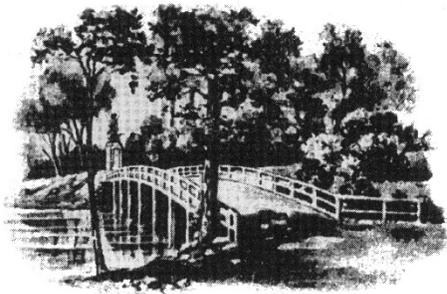
TOWN HOUSE - P.O. BOX 535
CONCORD, MASSACHUSETTS 01742

DATE: July 24, 2020
TO: Select Board
FROM: Jeremy Romanul, Senior Administrative Assistant

SUBJECT: 2020 - 2021 New Tour Guide License Applications

The following individuals have recently completed the Concord History Class and Guide exam, and have submitted complete applications to become licensed Tour Guides. These licenses will be scheduled to expire on May 31, 2021.

First Name	Last Name
Amy	Cole
Richard	Dorbin
Richard	Gersh
Sandra	Harper
Katthryn	Herold
Louis	Hutchings
Marybeth	Kelly
Marilyn	Lowitt
Diane	Morel
Robert	Morrison
Richard	Murphy
Ina	Neugebauer
Jennifer	Schunemann
Jennifer	Toth
Aidan	Webb
Paige	Welch
Beth	Williams
Zachary	Zevitas



OLD NORTH BRIDGE

TOWN OF CONCORD

TOWN HOUSE - P.O. BOX 535
CONCORD, MASSACHUSETTS 01742

DATE: July 24, 2020
TO: Select Board
FROM: Jeremy Romanul, Senior Administrative Assistant

SUBJECT: 2020 - 2021 Tour Guide License Renewals

The following individuals have submitted complete renewal applications for their Tour Guide license for the 2020-2021 year. These licenses will be scheduled to expire on May 31, 2021.

First Name	Last Name
Scott	Aden
Carol	Aronson
Tom	Beardsley
Bonnie	Beaudet
Shelley	Belton
Melvyn	Berger
Anna Marie	Bracco
Judith	Clark
Victor	Curran
Steve	Dawson
Timothy	Dewart
Sharlene	Dorothy
Elizabeth	Economou
Barbara	Ewen
David	Flannery
Mary	Foster
Bernice	Fousek
Alice	Galinat
Gail	Hamel

Peter	Healey
Howard	Helfman
Robert	Hilton
Andrea	Hubbard- Nelson
Susan	Hunt
Jennifer	Ingram
Enid	Karr
Karolyn	Kingman
Jacqueline	Kluft
Nancy	Kuziemski
Ann	Lang
Susan	LaRosee
Chynna	Lemire
Mark	Levine
Linda	Marchi
Michael	McGrath
Ronni	Olitsky
Barbara	Olson
Joan	Pagliuca
David	Parry
C. Winslow	Pettingell
George	Quintal, Jr.
Elizabeth	Ribeiro
Martha	Rohan
Lois	Rudd
Abigail	Russell
Frances	Sacco
Sonja	Sandberg
Sylvia	Sawyer
Charles	Sebor
Ira	Skolnik
Corinne	Smith
Cheryl	Tobey
Ken	Turkington
Beth	van Duzer
Neville	Webb
Donna	White
Jeanmarie	Williams

Sabune	Winkler
Edward	Wirtanen
Sara	Zarrelli

Town of Concord
Finance Department
Memorandum

TO: Select Board
 Finance Committee
 Stephen J. Crane, Town Manager

FROM: Kerry A. Lafleur, Chief Financial Officer

SUBJ: Request to approve FY20 year-end transfers

DATE: July 15, 2020

As you will recall, the Town's fiscal year budget is appropriated by Town Meeting in thirty-nine (39) distinct line items. Transfers are allowed between line items either by:

- Further Town Meeting action; or
- Under the procedure outlined in MGL Chapter 44, Section 33B.

At this time, I am seeking approval of **one final** transfer under MGL Ch. 44, Section 33B. Under this law, line item transfers are allowed between May 1 and July 15, with the approval of the Select Board and Finance Committee, the purpose being to close the year without line item deficits.

The following is the final request to close FY20:

Chapter 44, Section 33B Transfers Needed to Close FY20				
number	to/ from	line item	line description	amount
1	from	18	Snow Removal	\$ 39,000.00
2	to	38	Social Security & Medicare	\$ 39,000.00

The deficit in Line Item 38, Social Security & Medicare, is generally the result of an increase in the number of part-time employees for which the Town pays into Social Security, as these employees are not pension-eligible. As proposed, this deficit will be funded from Line 18, Snow Removal. A total of \$625,000 was budgeted for this activity, but only \$538,433 was expended, leaving an available balance of \$86,567.

Thank you for your consideration of this request.

 Finance Committee Action: _____

Select Board Action: _____

From: "epsjr@earthlink.net" <epsjr@earthlink.net>

Date: Tuesday, July 21, 2020 at 10:24 AM

To: Jane Hotchkiss <jhotchkiss@concordma.gov>, Susan Bates <sbates@concordma.gov>, Terri Ackerman <tackerman@concordma.gov>, Linda Escobedo <lescobedo@concordma.gov>, Michael Lawson <mlawson@concordma.gov>

Subject: 1134 Main Street Eminent Domain

Dear Fellow Residents,

My name is Edward Sinni and I reside in Concord Greene. I am sending this email to you given that we have a troubling matter across Baker Ave from that horrible TD Bank structure; specifically another large commercial bank proposal this time for Chase Bank of New York. I originally requested on June 19, 2020 that the Town Manager identify and involve those individuals that should be involved in a land purchase by the town but he chose to ignore the request and dismiss the residents' request out of hand and in doing so single handedly decide to reject the matter. That is pretty poor of him and should be alarming to you. It is unacceptable to us.

It appears that he overstepped his authority in deciding alone. When I asked on June 19, 2020 "Please share with me to what organization and/or individual a Town resident can communicate to recommend a land purchase by the Town or any other entity in Town." He responded, "That's me." And he indicated when asked for an update on June 19, 2020 "It would require a Town Meeting vote to take by eminent domain. I understand what you're trying to do but I am 99% certain it won't work so I won't be spending time on this." I foolishly believed him. Because of his behavior I am requesting that this matter be considered by the Selectmen now. I asked for status a second time on July 16, 2020 to no avail so I further asked for data through Freedom of Information statutes as follows, "...please provide me with 1.the reason for the refusal of an Eminent Domain request presented to you by Town residents for the property at 1134 Main Street Concord MA. I would like 2. the list of people that made the decision as well with their individual votes for and against. Include 3. all emails contributing to and part of the decision as well as 4. the telephone records including telephone notes taken by Town staff and Town volunteers. I request the above information consistent with my Freedom of Information rights both state and federal." In return I received the following reply, "You asked me, I thought about it, and I decided against it. No records of my thought process exist." I feel I was misled and this does not satisfy my FOI request.

Now going on with the request; in lieu of such a bank there are residents in Town that are attempting to have the Town take the property by Eminent Domain and make it into a small park, adjacent to yet separate from, the recently installed boat launch on Baker Ave. This park proposal is something that is found to be very appealing to many in Town.

The creation of a park would be at the site address of 1134 Main Street (the corner of Main St/RT62 and Baker Ave) in West Concord and could serve all Town residents close by (or not so close by frankly) but particularly young families and senior citizens of

which there are many in an area of Concord that is currently lacking such a neighborhood respite. The site is at the corner in which a Citizen's Bank branch was formerly operated.

The current proposal for the site is to build a Chase Bank in a size (2200 sq ft) similar to the TD Bank across Baker Ave from it. The Citizen's Bank building currently on the site is 1270 sq ft for comparison and will be demolished; so the replacement will be another monstrosity. The likely-hood is that it will be another hideous logo-centric modern architecture as proposed, very unbecoming to Concord, similar to the logo architecture of the TD Bank across the street from the site. The sizes of the buildings are comparable.

Such a wonderful park would be for all in Concord; and what such a neighborhood park would add to our Town and residents' lives would be enduring. I have sent letters to the Planning Board, the NRC, the ZBA and the WCAC detailing oversights and errors in the proposal that need addressing and requesting their support for the park. Should you like a copy it is on the Town's website or if you notify me I can send them to you electronically.

Thank you for your serious consideration of the above and let me know how to proceed with you.

With warm regards to all and be safe,

Edward Sinni

From: Stephen Crane <scrane@concordma.gov> **Date:** Thursday, July 23, 2020 at 12:46 PM **To:** SelectBoard <SelectBoard@concordma.gov> **Cc:** Joseph O'Connor <joconnor@concordma.gov> **Subject:** FW: 372 (3).pdf

Please see the attached and below from Chief O'Connor. I share his (and others) concerns with the legislation and its significant potential for unintended consequences that will make communities less safe. Thanks.

From: Joseph O'Connor <joconnor@concordma.gov>
Sent: Thursday, July 23, 2020 12:32 PM
To: Stephen Crane <scrane@concordma.gov>
Subject: 372 (3).pdf

Stephen,

I am writing per our discussion, in order for you to share with the Select Board this email and the attached testimony which I provided to the Massachusetts' Chairs of the House Ways and Means and Judiciary Committees who had received Senate Bill 2820 related to police reform. Since the murder of George Floyd, I have been clear about my positions and the professionalism of the Concord Police Department. Our Department has already adopted policies for issues which are included in the legislation. Please see the following links:

<https://concordmapdnews.com/2020/05/30/a-message-to-our-community/>

<https://concordmapdnews.com/2020/06/19/a-message-to-our-community-2/>

<https://concordmapdnews.com/2020/07/17/concord-police-department-to-implement-body-worn-and-cruiser-camera-program-this-fall-after-town-and-police-union-sign-agreement/>

I have been the Chief of Police since June of 2014 and have focused on building trust with the Concord community which includes our police officers. The recent memorandum of understanding with the union for implementing body-worn/in-car cameras was accomplished quickly due to the strong partnership which has been forged. In my testimony, I

expressed my concerns with the bill which I believe will not provide communities with the desired results needed as written. I spoke with Senator Barrett and Representative Gouveia regarding my concerns with specific sections of the bill and the unusual limited process being used which has excluded studies. In my testimony you will see which sections I addressed which comport with the thoughts of many from across the Commonwealth.

Others including the Massachusetts Municipal Association (MMA) have expressed concerns about various sections. For example on the MMA website you can find the following: “The Senate bill includes a controversial provision that would expand and codify the legal liability of police and all public employees and employers for cases of misconduct. The MMA has asked that this provision be further reviewed or amended. The House draft would narrow the scope of this provision, termed “qualified immunity.”

Throughout my career, I have attempted to positively impact the police profession and my submittal of the testimony will hopefully be seen as such.

I respectfully request you forward this email to the Select Board.

Joseph F. O'Connor
Chief of Police
Concord Police Department
219 Walden St
Concord, MA 01742
joconnor@concordma.gov
978-318-3401.





OLD NORTH BRIDGE

CONCORD POLICE DEPARTMENT

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EMAIL: joconnor@concordma.gov

JOSEPH F. O'CONNOR
CHIEF OF POLICE

July 17, 2020

Via e-mail to: Testimony.HWMJudiciary@mahouse.gov

Re: Concerns to Senate 2820 as Amended

Dear Chair Aaron Michlewitz and Chair Claire Cronin,

Please accept the following testimony with regard to SB2820 - An Act to reform police standards and shift resources to build a more equitable, fair and just commonwealth that values Black lives and communities of color.

My name is Joseph F. O'Connor and I am the Chief of Police for the Town of Concord. I joined the Concord Police Department in June of 2014 after having served on the MBTA Transit Police Department from 1990-2014. I had previously served as a police officer for the towns of Dennis and Winchester beginning my career in 1986. During my time at the Transit Police, I rose through the ranks from Police Officer to Superintendent-in-Chief.

I hold a master's degree in criminal justice from Boston University, and a bachelor's degree in criminal justice from Curry College. I am also a graduate of the FBI National Academy and the Police Executive Research Forum's Senior Management Institute for Police.

You are receiving information from various stakeholders who feel the need for change in our Commonwealth. The policing profession has been painted with a broad brush and as you are aware policing strategies and training vary throughout the country. Having spent the majority of my career working within Boston as a member of the MBTA Transit Police, I gained an understanding of many of the issues currently being debated. Here in Massachusetts, I am proud to personally observe leadership not only from my fellow Chiefs of Police but also Officers at all ranks as well as our non-sworn-personnel and residents who are committed to community policing that reflects the best of our profession.

The bill sent you by the Senate clearly was rushed, excluded testimony, and passed in the dark of night close to sunrise. I encourage under your leadership to have an open and inclusive process including citizens, police professionals, academics and other key stakeholders. The issues surrounding race and justice go far beyond the police officers in this Commonwealth and the narrow focus on our profession will not provide the results which our communities deserve. I have already begun to hear from some Officers who feel they are being scapegoated and in some cases beginning to think about retirement or changing careers since they feel their family's financial stability will be put at risk by the bill in its current form.

Please know that I concur with the Massachusetts Chiefs of Police Association's thoughts which are as follows:

"The list that follows corresponds to the Section Numbers in Senate 2820 with the applicable line numbers:

- SECTION 4 (line 230): Under (IV), the provision states that there shall be training in the area of the "history of slavery, lynching, racist institutions and racism in the United States." While we certainly welcome any and all training that enhances the professionalism and understanding of our officers, we are somewhat perplexed as to why law enforcement will now be statutorily mandated to have such a class to the exclusion of any other government entity?

One would believe that based on this particular mandate that the issue of what is inferred to as "racist institutions" is strictly limited to law enforcement agencies which aside from being incredibly inaccurate is also insulting to police officers here in the Commonwealth.

- SECTION 6 (line 272): In terms of the establishment of a POST (Peace Officer Standards and Training) Program, the various police chief's organizations here in our state wholeheartedly support the general concept. That said, the acronym of POSAC (Police Officer Standards Accreditation and Accreditation Committee) is causing significant confusion both in this bill and in the Governor's Bill. POST has nothing to do with Accreditation per se but has everything to do with Certification – and by implication "De-certification". In this state, there currently exists a Massachusetts Police Accreditation Commission (MPAC) for over 20 years which is made up of members of Law Enforcement (Chiefs, Ranking Officers), Municipal Government, and Colleges/Universities (Chiefs) in which currently 93 police agencies are accredited based on the attainment of national standards modeled from the Commission on Accreditation for Law Enforcement Agencies (CALEA). Utilizing the word "Accreditation" in the title is definitely misleading and should be eliminated. To the best of our

knowledge 46 other states use the acronym POST which seems to work without any problems or a need to create a new description of the important program.

- SECTION 6 (line 282): The Senate Bill states that POSAC shall be comprised of "14 members", however as outlined there are actually 15 positions. The MCOPA is strongly advocating for two (2) seats on the POSAC to be appointed by the MCOPA Executive Committee.

- SECTION 6 (line 321) : It appears from the language of the POSAC provision that the committee shall have the power to conduct what is referred to as "independent investigations and adjudications of complaints of officer misconduct" without any qualifying language as to how that would be implemented in terms of what type of alleged misconduct (law violations, use of force, injury, rude complaints, etc.) and when and under what circumstances will adjudications be subject to review resulting in a proposed oversight system that could go down the slippery slope of becoming arbitrary and capricious at some point and subject to a high level of scrutiny and criticism.

- SECTION 10(c) (line 570): Section 10 of "An Act to Reform Police Standards and Shift

Resources to Build a more Equitable, Fair and Just Commonwealth that Values Black Lives and Communities of Color" (the Act) is problematic, not only for law enforcement in the Commonwealth, but all public employees. In particular, Section 10 calls for a re-write of the existing provisions in Chapter 12, section 11I, pertaining to violations of constitutional rights, commonly referred to as the Massachusetts Civil Rights Act (MCRA). The MCRA is similar to the provisions of 42 U.S.C. § 1983 (setting for a federal cause of action for a deprivation of statutory or constitutional rights by one acting under color of law), except however, that the provisions of the MCRA as it exists today, does not require that the action be taken under color of state law, as section 1983 does. See G.L. c. 12, § 11H. Most notably, Section 10 of the Act would change that, and permit a person to file suit against an individual, acting under color of law, who inter alia deprives them of the exercise or enjoyment of rights secured by the constitution or laws of the United States or the Commonwealth of Massachusetts. By doing so, the Senate is attempting to draw the parallel between the federal section 1983 claim and the state based MCRA claims. The qualified immunity principles developed under section 1983 apply equally to claims under the MCRA. See *Duarte v. Healy*, 405 Mass. 43, 46-48, 537 N.E.2d 1230 (1989). "The doctrine of qualified immunity shields public officials who are performing discretionary functions, not ministerial in nature, from civil liability in § 1983 [and MCRA] actions if at the time of the performance of the discretionary act, the constitutional or statutory right allegedly infringed was not 'clearly established.'" *Laubinger v. Department of Rev.*, 41 Mass. App. Ct. 598, 603, 672 N.E.2d 554 (1996), citing *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982); see *Breault v. Chairman of the Bd. of Fire Commrs. Of Springfield*, 401 Mass. 26, 31-

32, 513 N.E.2d 1277 (1987), cert. denied sub nom. Forastiere v. Breault, 485 U.S. 906, 108 S.Ct. 1078, 99 L.Ed.2d 237 (1988); Duarte v. Healy, supra at 47-48, 537 N.E.2d 1230.

In enacting the Massachusetts Civil Rights Act, the Legislature intended to adopt the standard of immunity for public officials developed under section 1983, that is, public officials who exercised discretionary functions are entitled to qualified immunity from liability for damages. *Howcroft v. City of Peabody*, 747 N.E.2d 729, Mass. App. 2001. Public officials are not liable under the Massachusetts Civil Rights Act for their discretionary acts unless they have violated a right under federal or state constitutional or statutory law that was "clearly established" at the time. *Rodriguez v. Furtado*, 410 Mass. 878, 575 N.E.2d 1124 (1991); *Duarte v. Healy*, 405 Mass. 43, 537 N.E.2d 1230 (1989). Section 1983 does not only implicate law enforcement personnel. The jurisprudence in this realm has also involved departments of social services, school boards and committees, fire personnel, and various other public employees. That being said, if the intent of the Senate is to bring the MCRA more in line with section 1983, anyone implicated by section 1983, will likewise be continued to be implicated by the provisions of the MCRA. Notably, the provisions of the MCRA are far broader, which should be even more cause for concern for those so implicated.

Section 10 of the Act further sets for a new standard for the so-called defense of "qualified immunity." Section 10(c) states that "In an action under this section, qualified immunity shall not apply to claims for monetary damages except upon a finding that, at the time the conduct complained of occurred; no reasonable defendant could have had reason to believe that such conduct would violate the law"

This definition represents a departure from the federal standard for qualified immunity, although the exact extent to which it departs from the federal standard is up for debate, at least until the SJC provides clarification on it. The federal doctrine of qualified immunity shields public officials of all types from liability under section 1983 so long as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Harlow v. Fitzgerald*, 457 U.S. 800 (1982). Stated differently, in order to conclude that the right which the official allegedly violated is "clearly established," the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right. *Anderson v. Creighton*, 483 U.S. 635 (1987). It protects all but the plainly incompetent and those who knowingly violate the law. *Malley v. Briggs*, 475 U.S. 335 (1986). As a result, the standard sought to be created under Section 10 of the Act would provide public employees with substantially less protection than that afforded under the federal standard.

“Qualified immunity balances two important interests – the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably.”
Pearson v. Callahan, 555 U.S. 223 (2009).

Furthermore, although the Senate’s version of “qualified immunity” would only apply to state-based claims under the MCRA, what Section 10 proposes is fairly similar to that proposed by the 9th Circuit Court of Appeals in various decisions. In those instances where the 9th Circuit sought to lower the standard applicable to qualified immunity, the U.S. Supreme Court has squarely reversed the 9th Circuit, going so far as scolding it for its attempts to do so. See *Kisela v. Hughes*, 138 S.Ct. 1148 (2018); *City of Escondido v. Emmons*, 139 S.Ct. 500 (2019).

Although legal scholars and practitioners have a grasp as to the meaning of qualified immunity as it exists today, uncertainty will abound if this standard is re-written, upending nearly fifty years of jurisprudence. Uncertainty in the law can only guarantee an influx in litigation as plaintiffs seek to test the new waters as the new standard is expounded upon by the courts.

- SECTION 39 (line 1025): The provision to inform both the appointing authority and the local legislative body of the acquisition of any equipment and/or property that serves to enhance public safety makes perfect sense. That said, to have a public hearing available for all in the general public to know exactly what equipment the police departments may or may not possess serves to put communities in jeopardy in that those with nefarious motives will be informed as to what equipment that the department has at its disposal. This is very dangerous.
- SECTION 49 (line 1101-1115): This provision prevents school department personnel and school resource officers (who actually work for police departments), from sharing information with law enforcement officers – including their own agency – when there are ongoing specific unlawful incidents involving violence or otherwise. This quite frankly defies commonsense. School shootings have been on the rise since 2017. Did the Senate quickly forget about what occurred in Parkland, Florida on February 14, 2018? The learning environment in our schools must continue to be safe and secure as possible and information sharing is critical to ensuring that this takes place. Public Safety 101.
- SECTION 50 (line 1116): There seems to be a slight nuance to the amended language to Section 37P of Chapter 71 replacing “in consultation with” to “at the request of.” Many police departments have had school resource officer programs in this state for 25 years or longer. The only reason why officers are assigned to the schools are because they have been “requested” to be there by the school superintendents - period. The reality is

that many school districts even reimburse the police budgets for the salaries of these officers who serve as mentors for these young middle and high school students. If the Senate is being told that police chiefs are arbitrarily assigning officers to schools without first receiving a specific request from the school superintendents, they are being misled. The 2018 Criminal Justice Reform Act has very specific language that outlines the qualifications of an SRO, the joint performance evaluations that are to be conducted each year, the training that they shall have and the language specific MOUs that must exist between the Schools and the Police Department. We are very confused as to why this provision needs to be included.

- SECTION 52 (lines 1138-1251: There are several recommended changes to data collection and analysis as it pertains to motor stopped motor vehicles and pedestrians in this section. The Hands Free/Data Collection Law was signed into law only a few months ago before the onset of the pandemic. The new law contains a comprehensive system of data collection, benchmarking, review, analyses and potential consequences. While we continue to welcome data that is both accurate and reliable, the issue pertaining to the classification of an operator's race has still yet to be resolved. Before any data from calendar year 2020 has yet to be collected by the RMV and subsequently analyzed by a College/University selected by the Secretary of EOPSS, these provisions now look to complicate the matter even further before a determination has actually been made as to whether any problem of racial or gender profiling actually exists here in our state. We won't belabor the point, but this language appears to be what did not make its way into the Hands-Free Law which as you know was heavily debated for several months based strictly on the data collection component.

- SECTION 55 (line 1272)

To be clear, we do not teach, train, authorize, advocate or condone in any way that choke holds or any type of neck restraint that impedes an individual's ability to breathe be used during the course of an arrest or physical restraint situation. That said, we respect the discussion and concern pertaining to what is now a national issue based on the tragedy in Minneapolis. Under part (d) the language states that "[a] law enforcement officer shall not use a choke hold. [...]" What should also be included is a commonsensical, reasonable and rational provision that states, "unless the officer reasonably believes that his/her life is in immediate jeopardy of imminent death or serious bodily injury." There needs to be a deadly force exception to eliminate any possible confusion that this could cause for an officer who is in the midst of struggling for their life and needs to avail themselves of any and all means that may exist to survive and to control the subject. This is a reasonable and fairly straightforward recommendation.

• [Recommended New Section] Amends GL Chapter 32 Section 91(g): In order to expand the hiring pool of trained, educated, qualified and experienced candidates with statewide institutional knowledge for the Executive Directors' positions for both the Municipal Police Training Committee as well as the newly created POSAC (or POST), the statute governing the payment of pensioners for performing certain services after retirement, shall be amended to allow members of Group 4 within the state retirement system to perform in these two (2) capacities, not to exceed a three (3) year appointment unless specifically authorized by the Governor."

In closing, I know the days ahead of you will be challenging, I implore you to take the time to accumulate facts and utilize them during your deliberations. I know that the Concord Police Department and those throughout the Commonwealth will continue to deliver exceptional service to our communities. Please feel free to contact me if I can be of any assistance.

Respectfully Submitted,



Joseph F. O'Connor

Chief of Police

cc. Representative Tami Gouveia <tami@tamigouveia.com>

July 24, 2020

Dear Members of the Concord Select Board and Concord Town Manager,

Members of the former Public Private Partnership Study Committee have been following, with interest, the first renewal of a P3 agreement since the Select Board approved the “Select Board Policies Regarding Public Private Partnerships” in July, 2017.

Newer members of the Select Board and Town Manager Stephen Crane may not be aware that the nine-member P3 Committee was formed on the recommendation of the 2014 report of the Concord Town Governance Committee. The League of Women Voters of Concord-Carlisle also supported forming the committee in the interest of openness in local government affairs.

Process Concerns

We are concerned that the renewal of an agreement between the Town of Concord and the Library Corporation be carried out in accordance with the P3 Committee’s recommendations. One of the primary concerns of the P3 Committee was transparency in our local government.

The P3 policy adopted by the Select Board in July 2017 calls for an opportunity for the public to be informed, ask questions and comment about any proposed new agreement before the agreement is approved. While we appreciate that Select Board Chair Mike Lawson agreed to hold a public hearing—as provided for in the Select Board Policies of 2017—we have subsequently learned that not all parties to the agreement were informed about the draft agreement. The Concord Library Committee is an important party to the new agreement and the Committee has not had an opportunity to review and comment on the draft agreement.

We think it is important that the roles of the Library Committee, the Town Manager and the Library Director be better understood, since they will represent the Town in the new agreement.

Request

It would be helpful to know what issues needed to be addressed in the new agreement.

We also request that the MOU, referred to in Section 7., be completed before the draft agreement is approved by the Select Board. The MOU will spell out who—the Town or the Library Corporation—is responsible for paying for library buildings maintenance, a modification from the 2009 agreement. Since Section 7. could have financial implications for the town budget, it is important that the public be informed. We believe the agreement should be approved by the Select Board in full, and not piecemeal.

We respectfully request that the Select Board postpone the public hearing until all parties have had an opportunity to review the document and understand what is intended and that the MOU be drawn up, reviewed and approved so that it can be included in the final agreement.

Thank you for the work that has gone into updating the 2009 Agreement. We would welcome an opportunity to further explain the P3 Committee's final report so that you have this background as you review and finalize this agreement.

Sincerely,

Jean Goldsberry, Dorrie Kehoe, Ingrid Detweiler and Tom Rarich

Attachments:

July 2017 Select Board Policies Regarding Public-Private Partnerships
Public-Private Partnership Study Committee Charge



Town of Concord Select Board Policies Regarding Public Private Partnerships

For all new proposed partnerships:

- All P3s involving the Town, Town property and/or other Town assets must originate with the Town Manager.
- The Select Board will hold a public meeting for any new Public Private Partnership over \$150,000 to help ensure that the public is aware of the proposed partnership.
- The Town will develop and maintain a website where information about all public private partnerships within the jurisdiction of the Town will be made available to the public.
- Before the Select Board or the Town Manager will take any action to approve a partnership the following must take place:
 - Material associated with the proposed partnership as well as a project description shall be posted on the Town's website.
 - The Select Board will determine what other methods will be used to help ensure that the public is aware of the proposed partnership.
 - There will be a ten-day comment period associated with every proposed public private partnership.
 - A memorandum on understanding between the Town and the private organization to which it would partner shall be drafted. It shall be kept as a draft throughout the process of deliberation about the partnership. A more detailed description of the content of said MOU is contained in Appendix A.
 - If the partnership is approved by the Select Board, the Town Manager or by Town Meeting, the signed MOU shall become a permanent part of the record.
 - In approving a partnership, the Select Board, Town Manager or Town Meeting shall also determine a specific timetable for the future review of the partnership.

For existing partnerships:

- The Town Manager or his designated representative shall develop a schedule to review all public private partnerships.
- Partnerships deemed by the Town Manager to be have been significant – involving \$150,000 or that have lasted for over a year – shall be reviewed by the Select Board according to the schedule developed by the Town Manager.

- A designated representative of the Town Manager shall review all other partnerships, according to the above-mentioned schedule.
- On an annual basis the Town Manager will provide a summary of the review of all existing partnerships at a public meeting held by the Select Board.

Partnerships within the Town but not under the jurisdiction of the Town Manager and Select Board

- The Select Board and Town Manager will undertake to be aware of any proposed partnerships within the Town that may not be under their jurisdiction.
- The Select Board and Town Manager will endeavor, when aware of such a proposed partnerships, to ensure that they are brought to the attention of the citizens through the Town's website and by other means that may be useful.
- The Select Board will work with other jurisdictions in Town to encourage the adoption of similar policies regarding public private partnerships within these jurisdictions.

Appendix A: Select Board Policies Regarding
Public Private Partnerships
P3 Partnership MOU
Proposed content

P3 Partnership MOU and Contract should include the following subjects.

- Cost to town
 - Both project costs and long term maintenance costs
 - Taxpayer vs private funds
- Does it meet State, Local and Federal Statutes
 - Review zoning issues
- Town Benefit
 - Does proposal align with town goals and needs?
 - Clearly defined revenue stream
 - Town character enhancement
 - Impact on other town activities
- Town character affected and # of residents affected: before/during/after project
 - Long Range Plan – support or conflict?
 - e.g. Open land/Fitness center/Resource (library)/low income housing
- Long term maintenance requirements and ownership
 - Should there be an endowment to cover future maintenance/operation costs?
 - Insurable interest?
- Outline of project schedule and deliverables:
 - Timeframe
 - Milestones
 - Contingency if milestones not met
- Funding sources
 - Schedule of fundraising
 - Consequence if funding objectives not met
- Project review
 - Commit to quarterly meetings with the P3 committee

Appendix A

TOWN OF CONCORD

Public-Private Partnership Study Committee

Committee Charge

A. Background

The Town of Concord has a long history of engaging in public-private partnerships in order to advance the interest of Concord residents. Examples of organizations with which the Town has successfully partnered include: the Concord Free Public Library Corporation (library services), the Concord Land Conservation Trust (preservation of open space), the Friends of Concord-Carlisle Pools (Beede Swim & Fitness Center), the Rotary Club (Monument Square and other public improvement projects), the Friends of Concord-Carlisle Fields (creation of the Doug White Fields at CCHS) and Emerson Umbrella (facilities for the arts).

Many of these partnerships have been successful because the private partner is able to engage more freely in fund-raising than would be appropriate for a public entity. The private partner is able to solicit donations to support public facilities and services without the need to impose property taxes to achieve those ends. This approach takes advantage of private generosity to achieve an objective shared by the Town and the private funders, such as better library services, the purchase of open land or the creation of new facilities. Concord is fortunate to have a large number of active and successful non-profit entities as well as a citizenry that is generous in its support of public programs.

It has been noted in recent times, however, that the interests of private donors and issue-specific advocates may sometimes not be in complete alignment with the public interest, particularly in the areas of openness and transparency in decision-making, access to documents and information, and public involvement in decision-making. When a private entity is making decisions for itself, the public has no right of access to information and no right to observe its decision-making process. But when private parties are making decisions concerning the construction of a new public facility or the use and management of public property, there is a disconnect between the public's rights and the rights of private parties to make decisions. The result can be less openness and reduced public participation, and therefore a loss of public trust in the decisions that have been made.

B. Purpose

The purpose of the Public-Private Partnership Study Committee is to explore the issues surrounding public private partnerships, including the benefits and the drawbacks of such arrangements. The committee shall prepare a draft report of its findings and shall present the draft report at a public hearing to solicit feedback from the community. Following the public hearing, a final report will be prepared and submitted to the Select Board.

C. Membership

The Committee shall be comprised of seven members appointed by the Select Board. The term of office shall be for one year, and it is expected the Committee's work will be completed within two years. The members shall represent a diversity of perspectives relating to matters of public interest. The membership shall be as follows:

- One representative from the League of Women Voters;
- One representative from the School Committee;
- Two representatives from not-for-profit organizations in Concord with active relationships with the Town;
- Four citizens at-large providing a diversity of interests, backgrounds and expertise;

D. Duties and Responsibilities

1. To become familiar with the issues and concerns regarding public-private partnerships, both generally, and as they have worked specifically in Concord;
2. To solicit public input on the subject through a variety of methods, including holding a public hearing early in the fact-finding process;
3. To consider whether the Town should make a special effort to guarantee transparency, access to information, and public participation in either short-term public-private partnerships focused on a specific project or in long-term partnerships providing an on-going service or creating an enduring relationship;
4. To prepare a draft report (by December 1, 2016), including recommendations for actions the Town may take, and hold a public hearing concerning the draft report's findings and recommendations.
5. To submit a final report to the Select Board for possible future implementation.
6. To perform such other duties as the Select Board may request, including such tasks as the committee may propose to the Board as modifications to this committee charge.

E. Other Considerations

The Public-Private Partnership Study Committee is responsible for conducting its activities in a manner which is in compliance with all relevant State and local laws and regulations including, but not limited to, the Open Meeting Law, Public Records Law and Conflict of Interest Law. The Committee shall consult with the Town Manager concerning the allocation of town staff or financial resources toward this effort.

Michael Lawson, Chair