



OLD NORTH BRIDGE

TOWN OF CONCORD

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

Select Board Agenda

Monday, January 8, 2024 at 6:00 PM

Town House, Select Board Room, 22 Monument Square

Join Zoom Meeting

<https://us02web.zoom.us/j/87123041678?pwd=NldkSmxVeUtnNzYySU9iV0RVSWR0UT09>

Meeting ID: 871 2304 1678

Passcode: 246896

Dial In Toll-Free: 888-475-4499

#	Time*	Agenda Item
I.	6:00 PM	Public Comment: Public Comment is limited to up to 15 minutes, with no more than 3 minutes allocated to any one speaker. Public Comment is limited to items that are not on the agenda.
II.	6:15 PM	Consent Agenda <ul style="list-style-type: none"> a. Meeting Minutes <ul style="list-style-type: none"> i. December 4, 2023; December 18, 2023 b. Town Accountant Warrant: January 4, 2023 c. One Day Liquor License for Deb Abraham-Dematte of the Tremont School for All Alcoholic Beverages on Friday, January 12, 2024 from 7:00 PM to 11:00 PM for an event to take place at the Concord Scout House d. Late Tour Guide License Renewal for Nancy Powell-Daley e. Approve Letter of Support of H. 4138 Housing Bond Bill – Affordable Homes Act
III.	6:20 PM	Town Manager’s Report
IV.	6:30 PM	Chair’s Report
V.	6:40 PM	Select Board Liaison Reports
VI.	6:55 PM	Approve Hours of Service of Alcohol for Bandoleros at 195 Sudbury Road Presenter: Shannon McAndrew, Executive Assistant to the Select Board
VII.	7:00 PM	Request to Approve the Regulatory Agreement for Habitat for Humanity House at 367 Commonwealth Avenue

		Presenter: Liz Rust, Director of the Regional Housing Services Office
VIII.	7:05 PM	Final Report Recommendations from the White Pond Task Force Presenters: Beth Kelly and Evan Ricker, Co-Chairs of the White Pond Task Force
IX.	7:25 PM	Update on Fiscal Year 2025 Budget Presenter: Anthony Ansaldi, Chief Financial Officer
X.	7:40 PM	Vote Order of the 2024 Annual Town Meeting Warrant Presenter: Henry Dane, Select Board Chair
XI.	8:00 PM	Communications and Documents of Interest for Information but Not Discussion
XII.	8:00 PM	Adjournment

**Times are approximate and subject to change*

Upcoming Meetings:

Monday, January 29, 2024

Monday, February 12, 2024

Monday, February 26, 2024



The Town of Concord endeavors to make public meetings accessible to all members of the community. To request a meeting accommodation or modification, please contact our ADA Coordinator Megan Zammuto, mzammuto@concordma.gov or 978-318-3006. Please make any requests for accommodation or modifications at least two (2) business days prior to the scheduled meeting.

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December 4, 2023**

Pursuant to notice duly filed with the Town Clerk, the Concord Select Board convened in a meeting both in-person at 22 Monument Square on the 2nd floor in the Select Board Room and via Zoom at 6:00 PM on December 4, 2023.

Present were: Henry Dane, Chair; Mary Hartman, Clerk; Terri Ackerman, Linda Escobedo (via Zoom), and Mark Howell

Call to Order

Select Board Chair Henry Dane called the meeting to order at 6:00 PM.

Ms. Hartman confirmed that the members present were Mr. Dane, Ms. Ackerman, Ms. Escobedo (via Zoom), and Mr. Howell.

Public Comment

Chair Dane announced that five minutes would be allocated for those who want to discuss the Warners Pond Task Force Charge.

Mr. Jimmy Two Feathers of 303-305 Commonwealth Avenue voiced concerns about the lack of notice to abutters and inclusion of a Nipmuc Native American representative on the Warner's Pond Advisory Committee, questioning why someone from another tribe was being considered when he, an indigenous person living on the pond, wasn't. Mr. Two Feathers planned on raising this issue with the DEI Commission, from which he would recuse himself for potential conflict of interest. Mr. Dane pointed out that the final decision had not been established by the Natural Resources Commission (NRC), and encouraged Mr. Two Feathers to communicate his concerns to the NRC, and attend the upcoming related session held by the League of Women Voters at the Concord Public Library.

Ms. Vickie Alani of 257 Commonwealth Avenue stated that she had concerns about the management of Warner's Pond and its wider implications than just ecological issues, suggesting that someone with broader responsibility, such as the Planning Commission or an advisory committee, should oversee this project. There were suggestions that the Natural Resources Commission (NRC) could be seen as lacking in the broader expertise necessary. The NRC's authority to appoint subcommittees was noted by Ms. Ackerman, and attendees were encouraged to voice their issues to the NRC. Ms. Alani raised another concern about non-residents holding voting positions on Town task-forces, and some perceived conflict of interest with those groups as voting members.

Mr. Miguel Echavarri of 255 Commonwealth Avenue raised issues about mismanagement, particularly in relation to the dredging of Warner's Pond. He took issue with the way the NRC had handled the planning and execution of the project over the past five years, alleging mismanagement and misleading the public.

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Ms. Tanya Gailus of 62 Prescott Road highlighted the importance of involving independent artists and the public in the decision-making process regarding local cultural and artistic activities.

Consent Agenda

- A. Meeting Minutes
 - i. November 20, 2023
 - ii. For approval but not to be released – Executive Session for November 20, 2023
- B. Town Accountant Warrant: November 22, 2023
- C. Committee Nominations:
 - i. Lynda Ferrari of 20 Damon Street to the West Concord Advisory Committee to complete an unexpired term to expire May 31, 2024
 - ii. Timothy Whitney of 315 Lexington Road to the Historic Districts Commission as a designee of the Planning Board for a term to expire January 1, 2026

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to approve the Consent Agenda with the exception of the November 20, 2023 meeting minutes.

Roll Call Vote:

Chair Dane – Aye
Ms. Hartman – Aye
Ms. Ackerman – Aye
Ms. Escobedo – Aye
Mr. Howell – Aye

Committee Appointments

- A. Anthony Ansaldi, Chief Financial Officer, to the Retirement Board for an indefinite term
- B. Corrective appointment of Dr. Anna Feldweg of 343 Commonwealth Avenue to the West Concord Advisory Committee to complete an unexpired term to expire on May 31, 2025
- C. Kate James of 45 Estabrook Road to the Concord Center Cultural District Task Force for a term to expire December 31, 2024 or at the completion of the work of the task force
- D. Jerry Wedge of 109 Heaths Bridge Road to the Concord Center Cultural District Task Force for a term to expire December 31, 2024 or at the completion of the work of the task force
- E. Carole Wayland of 6 Abbott Lane, Apartment 6 to the Concord Center Cultural District Task Force for a term to expire December 31, 2024 or at the completion of the work of the task force
- F. Ross Jacobson of 16 Belknap Court to the Economic Vitality Committee for an extended term to correctly stagger terms to expire May 31, 2027
- G. Tim Hult of 20 South Meadow Ridge to the Concord Middle School Building Committee for a term to expire at the completion of the project

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to appoint Anthony Ansaldi, Chief Financial Officer, to the Retirement Board for an indefinite term; corrective appointment of Dr. Anna Feldweg of 343 Commonwealth

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Avenue to the West Concord Advisory Committee to complete an unexpired term to expire on May 31, 2025; to appoint Kate James of 45 Estabrook Road to the Concord Center Cultural District Task Force for a term to expire December 31, 2024 or at the completion of the work of the task force; to appoint Jerry Wedge of 109 Heaths Bridge Road to the Concord Center Cultural District Task Force for a term to expire December 31, 2024 or at the completion of the work of the task force; to appoint Carole Wayland of 6 Abbott Lane, Apartment 6 to the Concord Center Cultural District Task Force for a term to expire December 31, 2024 or at the completion of the work of the task force; to appoint Ross Jacobson of 16 Belknap Court to the Economic Vitality Committee for an extended term to correctly stagger terms to expire May 31, 2027; to appoint Tim Hult of 20 South Meadow Ridge to the Concord Middle School Building Committee for a term to expire at the completion of the project.

Roll Call Vote:

Chair Dane – Aye
Ms. Hartman – Aye
Ms. Ackerman – Aye
Ms. Escobedo – Aye
Mr. Howell – Aye

Town Manager’s Report

Town Manager Kerry Lafleur presented the Weekly Operations Report for the week ending December 1, 2023. The full Weekly Operations Report can be viewed on the Town Manager’s webpage on the Town website here – <https://concordma.gov/3239/2023-Town-Manager-Weekly-Operation-Report>.

Chair’s Report

Chair Dane noted that the Select Board hosted an effective Annual Town Meeting Preview Meeting on Saturday, December 2, 2023 and that the Board’s next meeting on Monday, December 18, 2023 will be the last chance to decide on which articles the Select Board may wish to sponsor on the Annual Town Meeting Warrant. Chair Dane continued and updated that the Town is close to wrapping up negotiations for the new Concord Center cell phone tower. Chair Dane then noted that the Town had filed a Public Records Request with Massport regarding the proposed expansion project, which has not yet been responded to, which may lead to an appeal.

Select Board Liaison Reports

Ms. Hartman began by informing the Select Board that the Concord Municipal Light Board (CMLB) voted for a slight increase in residential rates for 2024, and that solar debts and time-of-use rates would be implemented next year, which led to the decision to reserve rate refunds. Ms. Hartman also spoke to how solar installation would not lower rates immediately due to initial debt service. Ms. Hartman gave an update on the NOVO Riverside Commons project at Baker Avenue, including the plans for a presentation of the sustainability and architectural plan. Ms. Hartman stated that the future focus from the developers will be on traffic, believed to be of high interest to residents. Ms. Hartman informed the Board members that upcoming meetings about

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the development were scheduled for January 2024. Ms. Hartman continued that the Finance Committee issued their Guideline letter, in which the total guideline was 3.66%, resulting in a property tax increase of 3.65%, excluding additional increases from the Middle School debt. Ms. Hartman also stated that the Planning Board is wrapping up MBTA zoning maps and a warrant article to broaden the scope of accessory dwelling units across Town. In closing, Ms. Hartman stated that the Solar Implementation Task Force has proposed two locations in Town for expanding solar energy, which are at the Concord-Carlisle High School campus and the Landfill.

Ms. Escobedo reported that the Affordable Housing Trust held several meetings to monitor the 40B projects and approved funding for the Concord Housing Development Corporation's small grants program and additional resources. Ms. Escobedo stated that the Trust is also inviting applications for further review. Finally, Ms. Escobedo drew attention to the Historic Districts Commission meeting's conversation about DEI and other future developments/issues.

Ms. Ackerman reported that the Transportation Advisory Committee had been working with the Department of Public Works and the Finance Committee on plans for capital improvements to infrastructure and also reminded the community that there is still time to participate in the Transportation Survey, which will close on December 8, 2023. Ms. Ackerman continued that there was a community forum for the 2229 Main Street Advisory Task Force that went well. Ms. Ackerman continued and noted of the upcoming Hanscom Forum, negotiations with Comcast and infrastructure needs of the Concord Department of Public Works.

Mr. Howell reported that the Natural Resources Commission is working on the Warners Pond Task Force draft charge and that the Personnel Board is continuing work on amendments to the Personnel Bylaw that will be presented through warrant articles at Annual Town Meeting.

Approve Request to place Veterans Memorial Plaque in the Town House in accordance with Administrative Policy and Procedure #43

Mr. Paul Murphy proposed placing a commemorative plaque in the Town House for soldiers from Concord who passed away as of 1961. Mr. Dane stated that this discussion falls under A.P.P. #43 that necessitates the Select Board's approval for placing commemorative items in/on Town Property. One of the aspects Mr. Murphy discussed was the correction of the spelling for two of the names from the honor roll, read out during the Memorial Day ceremonies. Lastly, Mr. Murphy shared that he had sent a *Vimeo*, which involved visiting the graves of all soldiers and reaching out to their families.

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to move to approve the request to place a Veterans Memorial Plaque on the first floor of the Town House, next to the Town Clerk's Office.

Roll Call Vote:

Chair Dane – Aye

Ms. Hartman – Aye

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Ms. Ackerman – Aye
Ms. Escobedo – Aye
Mr. Howell – Aye

Select Board and School Committee Fiscal Year 2025 – 2029 Capital Planning Forum

Ms. Kerry Lafleur, Town Manager and Anthony Ansaldi, Chief Financial Officer appeared in front of the Select Board to make a presentation on the Fiscal Year 2025 – 2029 Capital Planning Forum. The School Committee also called their meeting to order.

Ms. Lafleur opened the discussion by briefly describing the work of the former Capital Planning Task Force and their recommendation that capital plans be broken into three tiers. Mr. Ansaldi then continued with a presentation reviewing and categorizing capital improvement expenditures. Mr. Ansaldi went through the CPS requested \$900,000 for capital improvements in FY2025, but concerns were raised among Select Board members about the categorization of these costs. Ms. Lafleur spoke about the use of ARPA funds, integration of sustainability goals, changes to road maintenance financing, and a feasibility study for Public Works and Public Safety complexes, which were the topics of significant discussion. Members of the Select Board shared sentiment that the additional cost to taxpayers from transitioning from a debt financed program to a cash financed program could be a concern. More transparency and long-term planning were suggested from members of the Select Board. Lastly, Ms. Lafleur identified a deficit in the budget, leading to discussions about increasing user fees for recreational programs and/or lobbying for more grants. The Select Board recognized the issues as long-term problems that require consistent cooperative efforts. The Town committed to review the capital planning process after the 2024 Annual Town Meeting in April.

Update from the Concord 2025 Executive Committee regarding the 250th American Revolution Anniversary Celebration Planning

Mr. Gary Clayton, Chair and Dr. Rob Munro, Vice Chair of the 2025 Executive Committee appeared in front of the Select Board to present plans regarding the 250th Anniversary Celebration of the American Revolution taking place in Concord. Dr. Munro discussed monthly community activities leading up to the celebration, focusing on historical milestones and events. Mr. Clayton discussed the identification of Concord residents who served in the Revolutionary War, a potential tree-planting program, and the development of a green space in Monument Square. A parade, slated for April 19, 2025, was also discussed, with an emphasis on making it larger and more significant than the Town's typical Patriots Day Parade. Mr. Fred Ryan highlighted the importance of collaboration with neighboring towns and ensuring public safety during the festivities, including the establishment of a regional planning group to manage safety and security was proposed. Additionally, Mr. John Arena was reported to be leading the efforts on the parade logistics, aiming to make it inclusive and safe, while ensuring it tells two intertwined stories of the country's and the Town's history. Lastly, future meetings and further planning stages were discussed.

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Dr. Munro spoke about the Committee's communication strategies, particularly in relation to an upcoming Inter-Municipal Agreement, emphasizing the scale of the event and the accompanying communication responsibilities. Dr. Munro acknowledged the economic benefits the event would bring to Concord and neighboring areas, highlighting the importance of expansive and effective communication. Dr. Munro emphasized the need for diverse communication methods, mentioning a website and the use of social media. Dr. Munro stated that the Committee has held intermunicipal meetings regularly, with the next one scheduled the following week in Arlington. Dr. Munro informed the Select Board that the Committee has been working toward finalizing an Inter-Municipal Agreement to formalize the collaboration between Concord, Arlington, Lincoln, and Lexington. There were discussions around public relations, event management, and the allocation of responsibilities among different town staff.

Mr. Clayton informed the Select Board that the proposal to move from the IMA to an RFP process was developed months prior and Concord was noted as the only participating town that had not yet signed the Inter-Municipal Agreement. In terms of budgeting, Mr. Clayton discussed the need for additional funding beyond public resources, through grants and fundraising initiatives. Mr. Clayton recognized the importance of public safety funding but knew that the amount needed wouldn't be final until plans were finalized. Mr. David Wood, Curator of the Concord Museum, gave a summary of the recently received two significant grant awards for planned exhibitions, \$100,000 and \$75,000 respectively. Mr. Richard Loughlin, Treasurer of the 2025 Executive Committee, identified that their Finance Committee has been actively working on the budget for several months and was preparing for fundraising initiatives. Mr. Loughlin stated that they were focused on preparing sponsorships and engaging local philanthropists among others.

Mr. Clayton informed the Select Board that the 2025 Executive Committee had a fundraising goal of \$500,000 and was also hoping for additional funds from the state. Mr. Clayton also discussed the potential of raising funds through the sale of commemorative coins and encouraging donations through a 501(c)3 corporation. A full proposed budget was included in the Select Board meeting packet, though there was further discussion about the plan, with an observation that an additional \$500,000 funding was required for public safety, considering the \$700,000 previously allocated was divided across all areas and only \$250,000 of it was remaining for public safety. It was suggested that the additional funding requests be made through a warrant article for the 2024 Annual Town Meeting. Mr. Clayton noted that it is the Committee's preference that the Select Board sponsor the warrant article.

Mr. Clayton continued and mentioned ongoing conversations with the Finance Committee that would lead to a detailed presentation to justify the funding. Mr. Dane stated that he had also approached the state legislators for funding, emphasizing that Concord is unable to bear the financial burden of ensuring safety and a meaningful environment for the public completely. However, there was uncertainty surrounding if and when the legislature may act on this. Points of discussion also covered different fundraising ideas and calendar events to support the budget.

Ms. Ackerman asked about a website for the celebration. It was clarified that the Committee is working on a website for the celebration that will be independent from the Committee's personal

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webpage on the Town's website, but the new website has not yet been launched. Mr. Dane noted the need to update the Committee's webpage on the Town's website.

Finally, Mr. Dane expressed some concern over the celebration events planned by the 250 Executive Committee, stating that he felt these events should primarily celebrate the history of the country and the 250th anniversary of the Battle of Concord, rather than being dominated by other socio-cultural and environmental issues, despite these also being important.

Dr. Munro expressed appreciation for the work and efforts the Town has undergone to form the 250 Executive Committee, to contextualize the contributions of their township, and extend the narrative to include previously overlooked aspects of local history. Dr. Munro acknowledged that demographics are changing, which will be reflected in future celebrations; however, the shared goal will be to organize events that allow both residents and visitors to see themselves in the Town's history. Dr. Munro emphasized that the proportion of historical events are critical in these planning efforts.

Ms. Liz Cobbs of 31 Pond View Lane was acknowledged for public comment and noted that this was an exciting discussion that was taking place about a celebration indicative of a great opportunity for Concord and its residents. Ms. Cobbs highlighted not just the past but also future developments in the Town, with emphasis on the continued growth and vibrancy of Concord.

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to adopt the Intermunicipal Agreement for the 250th American Revolution Anniversary Celebration and to ratify the adoption of the agreement on December 18, 2023.

Roll Call Vote:

Chair Dane – Aye
Ms. Hartman – Aye
Ms. Ackerman – Aye
Ms. Escobedo – Aye
Mr. Howell – Aye

Communications and Documents of Interest for Information but Not Discussion

Adjournment

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to adjourn the meeting at 8:59 PM.

Roll Call Vote:

Chair Dane – Aye
Ms. Hartman – Aye
Ms. Ackerman – Aye
Ms. Escobedo – Aye

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Mr. Howell – Aye

Meeting Materials:

[Select Board Meeting Packet for December 4, 2023](#)

[Select Board Meeting Recording for December 4, 2023](#)

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Pursuant to notice duly filed with the Town Clerk, the Concord Select Board convened in a meeting both in-person at 22 Monument Square on the 2nd floor in the Select Board Room and via Zoom at 6:00 PM on December 18, 2023.

Present were: Henry Dane, Chair; Mary Hartman, Clerk; Terri Ackerman, Linda Escobedo (via Zoom), and Mark Howell

Call to Order

Select Board Chair Henry Dane called the meeting to order at 6:00 PM.

Ms. Hartman confirmed that the members present were Mr. Dane, Ms. Ackerman, Ms. Escobedo (via Zoom), and Mr. Howell.

Public Comment

Liz Cobbs, Co-Chair of the Personnel Board, appeared before the Select Board to comment on the work that the Personnel Board has been doing on their amendments to the Bylaw for 2024 Annual Town Meeting. Ms. Cobbs urged the Select Board to add the Personnel Board to the next Select Board meeting agenda on Tuesday, January 2, 2024 to discuss the proposed amendments to the Bylaw.

Tracy Marano, Chair of the Concord-Carlisle Regional School Committee, appeared before the Select Board to comment on the proposed Solar Implementation Task Force Annual Town Meeting Warrant Article regarding solar on the Regional District School campus. Mr. Dane noted that this item is scheduled on tonight's meeting agenda, so she can continue speaking on the topic at that time.

Luis Berrizbeitia, Chair of the Historic Districts Commission, appeared before the Select Board to comment on the proposed Diversity, Equity, and Inclusion Commission Annual Town Meeting Warrant Article regarding the formation of a task force to review the charge and protocols of the Historical Commission and Historic Districts Commission. Mr. Berrizbeitia continued and asked the Select Board to not endorse this article and noted that the Historic Districts Commission's work is focused on reviewing and deciding on applications of appropriateness. Mr. Berrizbeitia noted that the Historic Districts Commission is looking forward to collaborating with the DEI Commission and discussing ways that they can improve their protocols and processes.

Joe Palumbo, Co-Chair of the Diversity, Equity, and Inclusion Commission, appeared before the Select Board to comment on the relationship that the Commission is working to form with the Historical Commission and Historic Districts Commission to work together on the suggestions and proposals that they have.

Consent Agenda

- a. Meeting Minutes
 - i. November 20, 2023
- b. Town Accountant Warrant: November 30, 2023; December 7, 2023

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- c. Gift Acceptance from the Concord-Carlisle Community Chest to the Council on Aging Outreach Worker Gift Account in the amount of \$12,712.00 and to the Council on Aging Social Services Coordinator Gift Account in the amount of \$5,905.50
- d. Retroactive Approval for a Sunday Entertainment License for 51 Walden Performing Arts Center for Sunday, December 17, 2023 from 2:00 PM to 5:00 PM for the Opera 51 Performance
- e. Committee Nominations:
 - i. Tanya Barteveyan of 62 Prescott Road to the Concord Center Cultural Task Force for a term to expire December 31, 2024 or at the completion of the work of the task force
 - ii. Richard Fahlander of 399 Old Bedford Road to the Concord Center Cultural Task Force for a term to expire December 31, 2024 or at the completion of the work of the task force
- f. Amended Concord Center Cultural Task Force Charge
- g. Letter of Support for Regional Transportation Grant
- h. Ratification of the Intermunicipal Agreement for the 250th American Revolution Celebration

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to approve the Consent Agenda with the amendment of increasing the membership of the Concord Center Cultural Task Force from three (3) to five (5) members.

Roll Call Vote:

Mr. Dane – Aye
Ms. Hartman – Aye
Ms. Ackerman – Aye
Ms. Escobedo – Aye
Mr. Howell – Aye

Committee Appointments

- a. Lynda Ferrari of 20 Damon Street to the West Concord Advisory Committee to complete an unexpired term to expire May 31, 2024
- b. Timothy Whitney of 315 Lexington Road to the Historic Districts Commission as a designee of the Planning Board for a term to expire January 1, 2026

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to appoint Lynda Ferrari of 20 Damon Street to the West Concord Advisory Committee to complete an unexpired term to expire May 31, 2024 and to appoint Timothy Whitney of 315 Lexington Road to the Historic Districts Commission as a designee of the Planning Board for a term to expire January 1, 2026.

Roll Call Vote:

Mr. Dane – Aye
Ms. Hartman – Aye

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Ms. Ackerman – Aye
Ms. Escobedo – Aye
Mr. Howell – Aye

Town Manager’s Report

Town Manager Kerry Lafleur presented the Weekly Operations Report for the weeks ending December 8, 2023. The full Weekly Operations Reports are available on the Town Website on the Town Manager’s webpage here – <https://concordma.gov/3239/2023-Town-Manager-Weekly-Operation-Report>.

Chair’s Report

Chair Dane reported on:

- MBTA Community Zoning case in Holden, Massachusetts – The case was dismissed for lack of standing on the part of the plaintiffs. The request of the advocates was that the court declare the ability to enforce the MBTA Community Zoning requirements went beyond what was included in Section 3A, but this was not decided on in this case.
- Milton, Massachusetts versus the Federal Aviation Administration (F.A.A.) – The case was dismissed for lack of standing in objecting to the policies and procedures of the F.A.A. This is instructive to Concord in that any approach the Town takes with the Hanscom North Airfield proposed expansion will not be successful if it deals with F.A.A. policies and procedures, such as noise policy.
- Spoke with a State Representative at a League of Women’s Voters event regarding funding for the 250th American Revolution Celebration and the outcome of the conversation was not encouraging, especially regarding timing of notification of funding, so the Town should continue to operate under the assumption that it will not receive additional funding from the state.

Select Board Liaison Reports

Ms. Hartman reported on:

- Finance Committee – Tabled the proposed Annual Town Meeting Warrant Article to issue one Guideline instead of several Guidelines. The School District presented their preliminary budgets, with both the Concord Schools and Regional School District currently above the Guideline, by \$87,000 and \$205,000 respectively. The Concord 2025 Executive Committee also presented a preliminary budget, but the Finance Committee did not make any decisions or recommendations regarding their budget at this time.
- Concord Municipal Light Board – Held Public Hearing for rate setting. Discussed the proposed Solar Implementation Task Force Annual Town Meeting Warrant Article for implementation of new solar infrastructure at the Landfill and Regional High School campus. The CMLB members expressed support for the warrant article.
- West Concord Cultural District Committee – Working on a promotional video for West Concord businesses.
- Planning Board – Tabled a proposed Annual Town Meeting Warrant Article to change parking requirements since the process was more complicated than anticipated.

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- Concord Housing Roundtable – The Concord Municipal Affordable Housing Trust had a balance of \$3.1 million, in which they have already allocated \$700,000 which will only add two additional units to the SHI, bringing their balance down to \$2.4 million. The Affordable Housing Trust is requesting \$500,000 from the Community Preservation Funds and possibly an additional \$500,000 from ARPA.

Ms. Ackerman reported on:

- Concord-Carlisle Human Rights Tea – Freedom Award was presented to Dignity in Asylum.
- Attended the Concord Water Resources Public Forum which was highlighted in the Town Manager’s Report.
- Public Works Commission – Proposed Stormwater Enterprise Fund will come forth to Annual Town Meeting in two phases, so the first Warrant Article will be in 2024 to setup the framework for the Stormwater Enterprise Fund and then secondly in 2025 will be to setup the Stormwater Enterprise Fund with rate structures.
- 2229 Main Street Advisory Task Force – Would like to brief the Select Board in May, have their draft report to the Select Board in the summer, and then have their final report to the Select Board by the end of October.

Ms. Escobedo reported on:

- Attended the Concord Housing Roundtable, which was highlighted by Ms. Hartman in her Liaison Report
- Attended several Affordable Housing Trust and Concord Housing Authority meetings, all related to activity that is specified in the Housing Production Plan.
- Attended the Concord-Carlisle League of Women’s Voters event, “The Climate Impact of Private Jet Expansion”, in which several state legislators attended and State Senator Barrett mentioned that they have investigated a number of avenues in which the Hanscom North Airfield proposed expansion can be challenged, but it will be an uphill battle.
- Attended the Concord-Carlisle League of Women’s Voters event, “Warner’s Pond Update and Open Discussion”, in which Natural Resources Director Delia Kaye - one of the keynote speakers - stated that she anticipates that the Natural Resources Commission will discuss the final form of the Warners Pond Task Force at their meeting on Wednesday, December 27, 2023.
- Attended both recent Planning Board and Zoning Board of Appeals meetings and have been interested in terms of what’s happening at the Elm Street proposed development, as there are some traffic issues and certain approvals that must occur before the development proceeds. Additionally, the Concord Housing Development Corporation proposal for Assabet River Bluff has been continued until January 18, 2024.

Mr. Howell reported on:

- Climate Action Committee – Tabled a proposed Annual Town Meeting Warrant Article for a Route 2 crossing initiative that they are going to perform further work on in conjunction with the Transportation Advisory Committee.

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- Historical Commission – Encouraged the “sooner rather than later” about the disposition of the Tercentenary Markers with the DEI Commission and they expressed support to do that. The Commission also discussed the Demolition Permit for the Sanborn School.
- Natural Resources Commission – Version 3 of the Warners Pond Task Force Charge is now published on the Commission’s webpage on the Town website for community review and input.
- Recreation Commission – Reviewing the Strategic Plan at their meeting tomorrow, December 19, 2023.

Authorize Town Manager to determine appropriate action with regard to Massport response to Public Records Request for documents relating to Hanscom North Airfield Project and to direct Special Counsel accordingly

Chair Dane presented on the Public Records Request for documents relating to Hanscom North Airfield proposed expansion and what the Town’s next decision regarding strategy will be considering Massport’s incomplete response to the request. Mr. Dane continued and suggested that the Select Board delegate this decision to the Town Manager.

Ms. Lafleur noted that the Town does not know if an appeal is needed at this time, but that Massport has not at this time complied with Public Records law. If there is to be an appeal, the appeal date is January 18, 2024, so there is some time.

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to authorize the Town Manager to determine the appropriate action regarding Massport response to Public Records Request for documents relating to Hanscom North Airfield Project and to direct Special Counsel accordingly.

Roll Call Vote:

Mr. Dane – Aye
Ms. Hartman – Aye
Ms. Ackerman – Aye
Ms. Escobedo – Aye
Mr. Howell – Aye

Request to Participate in Air Quality Study of Hanscom North Airfield

Mark Giddings, Concord Representative to the Hanscom Field Advisory Committee, appeared before the Select Board and presented a request to participate in an air quality study of Hanscom North Airfield and noted that the participation would cost the Town \$6,250.00, as split between other Hanscom area towns evenly. A full proposal is included in the Select Board meeting packet.

Mr. Dane asked how the Town would produce the funds for the study.

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Town Manager Kerry Lafleur responded that this is one of the reasons why this request is in front of the Board tonight, as this request was not allocated in the Town's budget previously and the Town would need to find the funds to contribute. Ms. Lafleur noted that this is possible, but the Finance Department would just need to take some time to see where the funds would come from.

Ms. Escobedo asked strategically, what does the Town gain from the study?

Mr. Giddings responded that it provides a benchmark of the pollution at Hanscom North Airfield, which gives the Hanscom area towns another quiver in its arrow against the proposed expansion project and in negotiations with Massport.

Pamela Dritt, 13-04 Concord Greene, appeared before the Select Board and commented on the importance of independent studies such as the proposed, as the agencies proposing expansions will continue to use outdated data overtime.

Upon a motion duly made and seconded, it was **voted:** to participate in the Air Quality Study of Hanscom North Airfield and to contribute \$6,250.00 as outlined in the Select Board meeting packet.

Roll Call Vote:

Mr. Dane – No
Ms. Hartman – Aye
Ms. Ackerman – Aye
Ms. Escobedo – Aye
Mr. Howell – Aye

The vote passed 4-1-0.

Approve 2024 Annual Select Board License Renewals

Shannon McAndrew, Executive Assistant to the Select Board, presented a memorandum on the 2024 Annual Select Board License Renewals. The full memorandum, which lists all businesses/entities renewing a Select Board License, is included in the Select Board meeting packet.

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to approve the 2024 Annual Select Board License Renewals as included in the Select Board meeting packet.

Roll Call Vote:

Mr. Dane – Aye
Ms. Hartman – Aye
Ms. Ackerman – Aye
Ms. Escobedo – Aye

**Town of Concord
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December 18, 2023**

Mr. Howell – Aye

Update on Fiscal Year 2025 Budget and Discuss Consolidated Town Budget Article for Annual Town Meeting

Chief Financial Officer Anthony Ansaldi appeared before the Select Board to provide an update on the Fiscal Year 2025 Budget. Mr. Ansaldi's full presentation is included in the Select Board meeting packet.

Town Manager Kerry Lafleur continued and noted of what a consolidated Town Budget Article for Annual Town Meeting could look like, such as consolidating line items under different Town Departments.

Review Annual Town Meeting Articles and Sponsorship

The Select Board first discussed the process regarding the Annual Town Meeting Warrant.

Mr. Howell asked a question regarding the definition of sponsorship. Mr. Howell explained that he feels like the process for getting an article on the Annual Town Meeting Warrant should be that if a Board, Committee, etc., would like to sponsor an article themselves, they do not need to present to the Select Board ahead of the closure of the Warrant, but can just submit their Warrant Article directly and the Select Board will order the Warrant at their meeting on January 8, 2024. After some discussion, the Select Board agreed to follow this approach.

- Article to Authorize Borrowing for Solar located at the Landfill and/or Concord-Carlisle Regional High School Campus

Dean Banfield, Chair of the Solar Implementation Task Force, appeared before the Select Board and presented the proposed article. Mr. Banfield's proposed text of the article and full presentation are included in the Select Board meeting packet.

Tracy Marano, Chair of the Concord-Carlisle Regional School Committee, appeared before the Select Board and commented that she has requested further information on the article before putting the article on a Regional School Committee meeting agenda.

- Article to Amend the Town Fossil Fuel-Free Bylaw to align with State Guidance

Eric Simms, Sustainability Director, appeared before the Select Board and presented the proposed article. The full proposed text of the article is included in the Select Board meeting packet.

Chair Dane asked if this is an amendment to the Home Rule Petition that has already been filed.

Mr. Simms clarified that this is an amendment to the Bylaw, not the Home Rule Petition.

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to sponsor an Article to Amend the Town Fossil Fuel-Free Bylaw to align with State Guidance.

**Town of Concord
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Roll Call Vote:

Chair Dane – Aye
Ms. Hartman – Aye
Ms. Ackerman – Aye
Ms. Escobedo – Aye
Mr. Howell – Aye

- Article to Appropriate Funds to the 250th American Revolution Anniversary Celebration

Gary Clayton, Chair of the Concord 2025 Executive Committee, appeared before the Select Board and presented the proposed article. Information from a report prepared by the Executive Committee for the Select Board meeting on December 4, 2023 is included in the Select Board meeting packet.

Ms. Hartman asked about the funding needed for the parade and if the Executive Committee needs funding from the General Fund.

Mr. Clayton responded yes, they intend to use funds from the General Fund for the parade, too.

Town Manager Kerry Lafleur added that she has been explicit to Mr. Clayton that she does not anticipate that the additional funding for the parade will fit within the Guideline.

Ms. Hartman suggested tabling until the Select Board's meeting on January 2, 2024 to see the total amount that will be requested in this article, when the Fiscal Year 2025 budget is further along. Ms. Hartman added that there are certain aspects that must be funded, such as public safety, but other items are discretionary.

Ms. Ackerman added that she would like to see some serious fundraising efforts from the 2025 Executive Committee.

Communications and Documents of Interest for Information but Not Discussion

Adjournment

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to adjourn the meeting at 9:12 PM.

Roll Call Vote:

Chair Dane – Aye
Ms. Hartman – Aye
Ms. Ackerman – Aye
Ms. Escobedo – Aye
Mr. Howell – Aye

Meeting Materials:

[Select Board Meeting Packet for December 18, 2023](#)

[Select Board Meeting Recording for December 18, 2023](#)



TOWN OF CONCORD
Office of the Town Manager
Town House
P.O. Box 535
Concord, Massachusetts 01742

To: Concord Select Board

From: Shannon McAndrew, Executive Assistant to the Select Board

Date: January 8, 2024

Re: One Day Liquor License for the Tremont School

Included in your meeting packet is an application for a One Day Liquor License for Deb Abrahams-Dematte on behalf of the Tremont School. The Tremont School is applying for the service of All Alcoholic Beverages for the Tremont School Trivia Night to be held on Friday, January 12, 2024 from 7:00 PM to 11:00 PM at the Concord Scout House, 74 Walden Street.

This application is complete with payment and TIPS Certifications.

Shannon McAndrew

From: noreply@civicplus.com
Sent: Friday, December 29, 2023 4:32 PM
To: licensing board; Town Manager's Office; jromanul@concordma.gov
Subject: Online Form Submittal: One Day Special Liquor Licenses

One Day Special Liquor Licenses

Company or Organization	Tremont School
Applicant Name	Deb
Email Address	Abrahams-Dematte
Applicant Address	575 Virginia Rd
City	Concord
State	MA
Zip Code	01742
Phone Number	1-603-801-6584
Name of Event	Tremont School Trivia Night
Activity Is	Non-Profit
Event Type	Private Event in Rented Facility
Event Date & Start Time	1/12/2024 7:00 PM
End Time	11:00 PM
Premises to be Licensed	Concord Scout House
City	74 Walden St, Concord
State	MA
Zip Code	01742
License is for the Sale of:	All Alcoholic Beverages
Bartenders TIPS trained?	Yes
Under 21 Attendees?	No

1st one-day license for Organization? Yes

If NO, number of years licensed? *Field not completed.*

More than 100 in attendance? No

By exercising the privileges of this license in serving persons with alcoholic beverages, the licensee is potentially exposed to significant liability for injuries and damages to the persons served or to others who are injured or damaged by the persons served. Your acceptance and exercise of this license will be deemed to be acknowledgement that you are aware of this potential liability. You are encouraged to discuss the risks associated with exercising your privileges of the license and the precautions appropriate to avoid injuries, damage and liability to others with your legal advisor. The Town of Concord, and the Select Board, acting as the Local Licensing Authority, shall not be liable to the licensee or others if injury or damage shall result from the exercise of the license.

I acknowledge and accept the above statement of liability Deb Abrahams-Dematte

APPLICATION FEE \$75.00

*Please forward to: Town Manager's Office PO Box 535 Concord, MA 01742
Applications cannot be processed until payment is received.*

Acknowledgements I attest the information contained in this form is true and accurate., I acknowledge that I must pay an application fee of \$75 and will mail my payment., I acknowledge that no action will be taken, or scheduled, regarding my application until payment is received.

IMPORTANT NOTICE

Board & Committee Meeting Calendar

(Section Break)

TIPS TRAINING

The Select Board require that for any event which they issue a special permit, the alcohol provided must be served by a TIPS trained (or equivalent) bartender. TIPS training cards, or their equivalent, must accompany this application. Additionally, each certification must show a photo and name of the bartender(s) and must be current. If a photo is not on the TIPS training cards, a copy of a valid driver's license with a photo should be included. Proof of TIPS credentials must be provided before any application may be voted on by the Select Board.

I acknowledge and agree to the Town of Concord's TIPS Training Policy as outlined above. Copies of cards have been included with this application

(Section Break)

UNDER 21 POLICY

The Town of Concord Select Board assumes that there may be guests or attendees under 21 years of age at any event. therefore, this policy must be adhered to for all events. Applicants agree to check the ages of all guests at the door. If a persons under the age of 21 are present, his or her hand shall be stamped to indicate the he/she is underage for the bartender.

I certify that Concord's Under 21 Policy, as outlined above, will be followed.

A legal adult, over 21 years of age, shall check the ages of all guests to ensure compliance., All bartenders shall be made aware of the Under 21 Policy terms before the event's commencement.

Email not displaying correctly? [View it in your browser.](#)

Shannon McAndrew

From: keith@kbergman.com
Sent: Tuesday, January 2, 2024 1:17 PM
To: Henry Dane
Cc: Shannon McAndrew; Kerry Lafleur; Linda Escobedo
Subject: Time sensitive: Town support for H. 4138 Governor's \$4 billion housing bond bill w/real estate transfer fee for affordable housing trusts - January 18th legislative hearing
Attachments: H4138.pdf
Importance: High

Hello, Henry-

The Concord Municipal Affordable Housing Trust is getting signals from the LOHA (Local Options for Housing Affordability) Coalition that the Legislature's Joint Committee on Housing will be holding a public hearing on Thursday, January 18th on the Governor's \$4 billion housing bond bill ([H.4138](#)) a/k/a the Affordable Homes Act, which includes in Section 20 of that bill a local option real estate transfer fee to fund affordable housing trusts—the first expression of gubernatorial support for such a measure.

CMAHT is grateful for the Select Board's policy support of other state legislation to authorize a real estate transfer fee to fund the Trust—including Concord's home rule petition ([H.2730](#)) and the LOHA Coalition's state wide local option bill ([S.1771](#))-- and for the [Select Board's August 28, 2023 vote](#) "to approve a policy statement developed by the Trust for a proposed spending plan to implement production strategies in the FY 2023 – FY 2028 Housing Production Plan" which also encouraged the Trust to pursue additional funding "by continuing to pursue a real estate transfer fee . . . to fund the Trust."

So I wanted to reach out to request that the Select Board schedule the matter of a vote of support of H.4138 sometime prior to that January 18th hearing date—perhaps at the Board's Monday, January 8th meeting. The Trust will be meeting on Tuesday, January 9th to vote its support of that bill, and I'm reaching out to other Concord Housing Roundtable partners for their support as well.

The Governor's cover letter to the Legislature (attached) summarizes H.4138 as a whole, and describes its proposed transfer fee as "Establishing a local option real estate transfer fee of 0.5% - 2% paid by the seller of property on the portion of the sale over \$1 million, or the county median home sales price, whichever is greater. Revenue raised through a real estate transfer fee would be required to be used for affordable housing purposes, including for public housing, through a community's municipal affordable housing trust fund."

The calculator linked below indicates Concord would get about \$2 million per year from a 1% fee where the first \$1,000,000 of value is exempted, which is what Concord has requested in its home rule petition.

[How Much Would a Transfer Fee on Expensive Real Estate Generate for Your City or Town? - Mass. Budget and Policy Center \(massbudget.org\)](#)

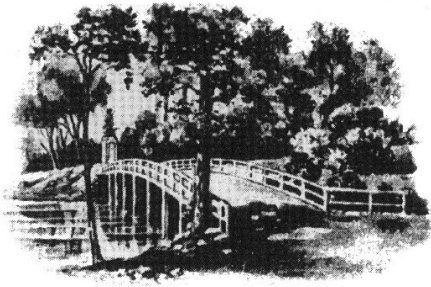
The Trust would be grateful for the Select Board's support of H.4138, particularly in time for the upcoming legislative hearing.

Thanks very much for your consideration.

Keith

Keith Bergman, Chair

[Concord Municipal Affordable Housing Trust | Concord, MA \(concordma.gov\)](#)



OLD NORTH BRIDGE

TOWN OF CONCORD

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

January 8, 2024

The Honorable Lydia Edwards
Chair, Joint Committee on Housing
State House, Room 413-C
Boston, MA 02133

The Honorable James Arciero
Chair, Joint Committee on Housing
State House, Room 146
Boston, MA 02133

RE: H.4138, An act the Affordable Homes Act

Dear Chairs Edwards and Arciero,

The Concord Select Board submits the following for inclusion in the public record as part of the Joint Committee on Housing public hearing, scheduled for January 18, 2024, regarding H.4138, the Affordable Homes Act.

Regarding the Affordable Homes Act, we are pleased to see the Governor's support for local communities with the proposal to establish a real estate transfer fee of 0.5% - 2.0% paid by the seller of property on the portion of the sale over \$1 million. This proposal aligns with our request, based on local needs, for home rule authorization. We applaud the Governor's proposal, and we ask for the Joint Committee's support on this bill which is so vital to our affordable housing production plans.

We praise the Governor's efforts to submit a strong bill devoted to increasing the capacity for and production of affordable housing across the state. According to the Governor's signing statement, "the Commonwealth faces an increasing housing shortage...and...estimates that the Commonwealth must produce 200,000 homes by 2030 to tackle the existing housing shortage and meet growing demand." The bill includes the following initiatives: invest in public housing (\$1.5 billion), drive housing production & preservation (\$1.5 billion), support vulnerable populations (\$635 million), support middle income and home buyers (\$250 million), make permanent the Community Investment Tax Credit (\$15 million), create a new homeownership production tax credit (\$10 million), and unlock home rule restrictions in order to allow local municipalities to fund their affordable housing initiatives.

We are proud of the efforts that the Town of Concord has taken over the years to address

affordable housing in our community, while we also acknowledge there is much more work to be done. The Town voted to approve an Affordable Housing Funding Committee in 2017, and in 2018 the Committee issued its preliminary report. Among its findings, the Committee reported that:

- “the wait for affordable rentals can exceed seven years in Concord”,
- “there were 33 applicants to purchase one affordable home in Concord in 2016”, and
- “Concord would need to produce 9-10 affordable homes every year in order to comply with MGL 40B at Concord’s (then) rate of adding 900-1,000 new homes every ten years.”

In 2019 and again in 2023, Concord Town Meeting voted with Select Board support to approve two mechanisms to fund affordable housing development in our town: a building permit fee surcharge and a real estate transfer fee. Both mechanisms require home rule authorization and bills were filed to seek appropriate authorization. The building permit fee surcharge (H.2729) is projected to generate over \$500,000 per year for affordable housing development, and the real estate transfer fee (H.2730) is projected to generate over \$1.8 million per year.

In 2020, we authorized the creation of a municipal affordable housing trust. The Trust was designed to develop, promote, and implement housing production plans and collect and distribute funds for affordable housing. Examples of such revenues for the Trust include funds generated by the building permit fee surcharge and real estate transfer fee (once provided with home rule authorization). Without the home rule authorization, the Trust would have no permanent source of ongoing funding for affordable housing development, and the Town would not be able to achieve its ambitious housing production strategies (as detailed in the 2022 Housing Production Plan).

Thank you for your consideration.

Yours Sincerely,

Henry J. Dane, Chair

Concord Select Board

Terri Ackerman

Henry Dane

Linda Escobedo

Mary Hartman

Mark Howell

Cc: Senator Mike Barrett
Representative Carmine Gentile
Representative Simon Cataldo
Concord Municipal Affordable Housing Trust



TOWN OF CONCORD
Office of the Town Manager
 Town House
 P.O. Box 535
 Concord, Massachusetts 01742

To: Concord Select Board

From: Shannon McAndrew, Executive Assistant to the Select Board

Date: January 8, 2024

Re: Proposed Hours of Operation for Service of Alcohol for Bandoleros

As mentioned at the last Select Board meeting on Tuesday, January 2, 2024, the Alcoholic Beverages Control Commission (ABCC) recently approved the Liquor License for Bandoleros to be located at 195 Sudbury Road. The ABCC's Liquor License application does not request the applicant to list the proposed hours of operation for the service of alcohol, as this is something that the Local Licensing Authority (namely, the Select Board) should approve.

Now that the Liquor License has been approved, I have reached out to Mr. Elmer Melendez for the proposed hours of operation for the service of alcohol for Bandoleros, presented in the table below. Mr. Melendez has requested service begin at 11:00 AM and conclude by 12:00 AM, besides Sunday, in which service would conclude by 11:00 PM. Mr. Melendez has requested service conclude by 12:00 AM as his businesses sometimes host special events/holidays in which patrons stay in later hours.

Please reach out to me if you have any questions.

Proposed Hours of Operation – Bandoleros

Day of the Week	Open	Close
Monday	11:00 AM	12:00 AM
Tuesday	11:00 AM	12:00 AM
Wednesday	11:00 AM	12:00 AM
Thursday	11:00 AM	12:00 AM
Friday	11:00 AM	12:00 AM
Saturday	11:00 AM	12:00 AM
Sunday	11:00 AM	11:00 PM



Regional Housing Services Office

Serving Acton, Bedford, Concord, Lexington, Lincoln, Maynard, Natick, Sudbury, Wayland, and Weston

Office Address: 37 Knox Trail, Acton, MA 01720
Phone: (978) 287-1092

Website: WWW.RHSOhousing.org
Email: INFO@RHSOhousing.org

January 1, 2024

To: Henry Dane

From: Liz Rust, RHSO

CC: Megan Zammuto, Kerry Lafleur

RE: 367 Commonwealth Avenue, Habitat – Select Board approval of Regulatory Agreement

Henry,

I am writing to request a short agenda item for the 1/8/24 Select Board agenda for the Board to approve and authorize the Town Manager to sign the Regulatory Agreement And Declaration of Restricted Covenants for the 367 Commonwealth Avenue home.

The 367 Commonwealth Avenue home is the Habitat home, developed on land given to the Concord Housing Authority from the Town from the Gerow land acquisition. The home is now complete, and they are hoping to close in the next few weeks, and requires the recording of the Regulatory Agreement before closing can be completed.

The Regulatory Agreement is one piece of the affordable housing restriction. There is also a restriction attached to the deed to the buyer (deed restriction) that will be recorded when the buyer purchases the property later in January, at which time the unit will be added to the Subsidized Housing Inventory.

The Regulatory Agreement presented for approval is the standard EOHLC agreement, and restricts the property in perpetuity.

Please let me know if you have any comments or questions.

Sincerely,

Liz Rust

LOCAL INITIATIVE PROGRAM
**REGULATORY AGREEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR
OWNERSHIP PROJECT**

This Regulatory Agreement and Declaration of Restrictive Covenants (the “Agreement”) is made this ___ day of _____ 20__ by and among the Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities (“EOHLC”), pursuant to G.L. c. 23B §1 as amended by Chapter 7 of the Acts of 2023, the Town of ___ Concord___ (“the Municipality”), and Habitat for Humanity of Greater Lowell, Inc, a Massachusetts nonprofit corporation, having an address at 68 Tadmuck Road, Unit 1, Westford MA 01886_, and its successors and assigns (“Project Sponsor”).

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the “Act”) and the final report of the Special Legislative Commission Relative to Low- and Moderate-Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the “Regulations”) which establish the Local Initiative Program (“LIP”);

WHEREAS, the Project Sponsor intends to construct a housing development known as 365-367 Commonwealth Condominium at a .28-acre site on Commonwealth Avenue in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the “Project”);

WHEREAS, such Project is to consist of a total number of ___2___ condominium units (the “Units”) and ___1___ of the Units will be sold at prices specified in this Agreement to persons or households with incomes at or below eighty percent (80%) of the regional median household income (the “Low- and Moderate-Income Units”);

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Project Sponsor have made application to EOHLC to certify that the units in the Project are Local Action Units (as that term is defined in the *Comprehensive Permit Guidelines* (the “Guidelines”)) published by EOHLC with the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement:

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, EOHLC, the Municipality, and the Project Sponsor hereby agree and covenant as follows:

1. The Project Sponsor agrees to construct the Project in accordance with plans and specifications approved by the Municipality (the “Plans and Specifications”). In addition, all Low- and Moderate-Income Units to be constructed as part of the Project must be indistinguishable from other Units in the Project from the exterior (unless the Project has an approved “Alternative Development Plan” as set forth in the *Comprehensive Permit Guidelines* (the “Guidelines”)) published by EOHLIC, and must contain complete living facilities including but not limited to a stove, refrigerator, kitchen cabinets, plumbing fixtures, and washer/dryer hookup, all as more fully shown in the Plans and Specifications.

_____ of the Low- and Moderate-Income Units shall be one-bedroom units;
_____ 1 _____ of the Low- and Moderate-Income Units shall be two-bedroom units;
_____ of the Low- and Moderate-Income Units shall be three-bedroom units; and,
_____ of the Low- and Moderate-Income Units shall be four-bedroom units.

All Low- and Moderate-Income Units to be occupied by families must contain two or more bedrooms. Low- and Moderate-Income Units must have the following minimum areas:

one-bedroom units	-	700 square feet
two-bedroom units	-	900 square feet
three-bedroom units	-	1200 square feet
four-bedroom units	-	1400 square feet

The Project must fully comply with the State Building Code and with all applicable state and federal building, environmental, health, safety and other laws, rules, and regulations, including without limitation all applicable federal and state laws, rules and regulations relating to the operation of adaptable and accessible housing for persons with disabilities. The Project must also comply with all applicable local codes, ordinances and by-laws.

Each Low- and Moderate-Income Unit will be sold for no more than the price set forth in Exhibit B attached hereto and made a part hereof to an Eligible Purchaser. An Eligible Purchaser is a Family (i) whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U. S. Department of Housing and Urban Development and (ii) whose assets do not exceed the limits specified in the Guidelines. A “Family” shall mean two or more persons who will live regularly in the Low- or Moderate-Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-dependent relationship; or an individual. The “Area” is defined as the _____ Boston _____ MSA/HMFA/County.

2. Upon the occurrence of one of the events described in 760 CMR 56.03(2), the Project will be included in the Subsidized Housing Inventory as that term is described in 760 CMR 56.01. Only Low- and Moderate-Income Units will be counted as SHI Eligible Housing as that term is described in 760 CMR 56.01 for the purposes of the Act.

3. (a) At the time of sale of each Low- and Moderate-Income Unit by the Project Sponsor, the Project Sponsor shall execute and shall as a condition of the sale cause the purchaser of the Low- and Moderate-Income Unit to execute an Affordable Housing Deed Rider in the form

of Exhibit C attached hereto and made a part hereof (the “Deed Rider”). Such Deed Rider shall be attached to and made a part of the deed from the Project Sponsor to the Unit Purchaser. Each such Deed Rider shall require the Unit Purchaser at the time he desires to sell the Low- and Moderate-Income Unit to offer the Low- and Moderate-Income Unit to the Municipality and to EOHLC at a discounted purchase price more particularly described therein. The Municipality and EOHLC shall have the option upon terms more particularly described in the Deed Rider to either purchase the Low- and Moderate-Income Unit or to find an Eligible Purchaser. The Deed Rider shall require the Unit Purchaser and the Eligible Purchaser to execute at the time of resale a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low- and Moderate-Income Unit which will be attached and made a part of the deed from the Unit Purchaser to the Eligible Purchaser, so that the affordability of the Low- and Moderate-Income unit will be preserved each time that subsequent resales of the Low- and Moderate-Income unit occur. (The various requirements and restrictions regarding resale of a Low- and Moderate-Income Unit contained in the Deed Rider are hereinafter referred to as the (“Resale Restrictions”). If upon the initial resale or any subsequent resale of a Low- and Moderate-Income Unit, the Municipality and EOHLC are unable to find an Eligible Purchaser for the Low- and Moderate-Income Unit, and the Municipality and EOHLC each elect not to exercise its right to purchase the Low- and Moderate-Income Unit, then the then current owner of the Low- and Moderate-Income Unit shall have the right to sell the Low- and Moderate-Income Unit to any person, regardless of his income (an “Ineligible Purchaser”) at the Maximum Resale Price and subject to all rights and restrictions contained in the Deed Rider, and provided that the Unit is conveyed subject to a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low- and Moderate-Income Unit which will be attached and made part of the deed from the Unit Purchaser to the Ineligible Purchaser.

(b) For each sale of a Low- and Moderate-Income Unit, EOHLC must approve the terms of the Eligible Purchaser’s mortgage financing as evidenced by EOHLC’s issuance of the Resale Price Certificate described in the Deed Rider.

(c) The Municipality agrees that in the event that it purchases a Low- and Moderate-Income Unit pursuant to its right to do so contained in the Deed Rider then in effect with respect to such Low- and Moderate-Income Unit, that the Municipality shall within six (6) months of its acceptance of a deed of such Low- and Moderate-Income Unit, either (i) sell the Low- and Moderate-Income Unit to an Eligible Purchaser at the same price for which it purchased the Low- and Moderate-Income Unit plus any expenses incurred by the Municipality during its period of ownership, such expenses to be approved by EOHLC, subject to a Deed Rider satisfactory in form and substance to EOHLC and the recording of an Eligible Purchaser Certificate satisfactory in form and substance to EOHLC, the method for selecting such Eligible Purchaser to be approved by EOHLC or (ii) rent the Low- and Moderate-Income Unit to a person who meets the income guidelines of the LIP Program, upon terms and conditions satisfactory to EOHLC and otherwise in conformity with the requirements of the LIP Program. If the Municipality fails to sell or rent the Low- and Moderate-Income unit as provided herein within said six (6) month period, or if at any time after the initial rental of the Low- and Moderate-Income Unit by the Municipality as provided herein the Low- and Moderate-Income Unit becomes vacant and remains vacant for more than ninety (90) days, then such Low- and Moderate-Income Unit shall cease to be counted as SHI Eligible Housing, and shall no longer be included in the Subsidized Housing Inventory.

(d) Each Low- and Moderate-Income Unit will remain SHI Eligible Housing and continue to be included in the Subsidized Housing Inventory for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Project Sponsor is in default hereunder; (2) the Project and Low- and Moderate-Income Unit each continue to comply with the Regulations and the Guidelines as the same may be amended from time to time; and (3) either (i) a Deed Rider binding the then current owner of the Low- and Moderate-Income Unit to comply with the Resale Restrictions is in full force and effect and the then current owner of the Low- and Moderate-Income Unit is either in compliance with the terms of the Deed Rider, or the Municipality is in the process of taking such steps as may be required by EOHLIC to enforce the then current owner's compliance with the terms of the Deed Rider or (ii) the Low- and Moderate-Income Unit is owned by the Municipality and the Municipality is in compliance with the terms and conditions of the last preceding paragraph, or (iii) the Low- and Moderate-Income Unit is owned by EOHLIC.

4. (a) Prior to marketing or otherwise making available for sale any of the Units, the Project Sponsor must obtain EOHLIC's approval of a marketing plan (the "Marketing Plan") for the Low- and Moderate-Income Units. Such Marketing Plan must describe the buyer selection process for the Low- and Moderate-Income Units and must set forth a plan for affirmative fair marketing of Low- and Moderate-Income Units and effective outreach to protected groups underrepresented in the municipality, including provisions for a lottery, consistent with the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%) of the Low- and Moderate-Income Units, subject to all provisions of the Regulations and Guidelines, provided that any local preference shall apply only to the initial unit sales by the Project Sponsor. When submitted to EOHLIC for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the buyer selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and EOHLIC directives reflecting the agreement between EOHLIC and the U.S. Department of Housing and Urban Development in the case of *NAACP, Boston Chapter v. Kemp*. **If the Project is located in the Boston-Cambridge-Quincy, MA-NH MSA, the Project Sponsor must list all Low- and Moderate-Income Units with the Boston Fair Housing Commission's MetroList (Metropolitan Housing Opportunity Clearing Center); other requirements for listing of units are specified in the Guidelines.** All costs of carrying out the Marketing Plan shall be paid by the Project Sponsor.

(b) The Project Sponsor may use in-house staff to draft and/or implement the Marketing Plan, provided that such staff meets the qualifications described in the Guidelines. The Project Sponsor may contract for such services provided that any such contractor must be

experienced and qualified under the standards set forth in the Guidelines. A failure to comply with the Marketing Plan by the Project Sponsor or by the Municipality shall be deemed to be a default of this Agreement. The Project Sponsor agrees to maintain for at least five years following the sale of the last Low- and Moderate-Income Unit, a record of all newspaper ads, outreach letters, translations, leaflets, and any other outreach efforts (collectively “Marketing Documentation”) as described in the Marketing Plan as approved by EOHLC which may be inspected at any time by EOHLC. All Marketing Documentation must be approved by EOHLC prior to its use by the Project Sponsor or the Municipality. The Project Sponsor and the Municipality agree that if at any time prior to or during the process of marketing the Low- and Moderate-Income Units, EOHLC determines that the Project Sponsor, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Project Sponsor or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by EOHLC.

5. Neither the Project Sponsor nor the Municipality shall discriminate on the basis of race, religion, color, sex, sexual orientation, familial status, age, disability, marital status, national origin, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of buyers for the Units; and the Project Sponsor shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

6. (a) The Project Sponsor agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. EOHLC and the Chief Executive Officer of the municipality shall have access during normal business hours to all books and records of the Project Sponsor and the Project in order to monitor the Project Sponsor's compliance with the terms of this Agreement.

(b) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to EOHLC that each of the Low- and Moderate-Income Units continues to be occupied by a person who was an Eligible Purchaser at the time of purchase; that any Low- and Moderate-Income Units which have been resold during the year have been resold in compliance with all of the terms and provisions of the Deed Rider then in effect with respect to each such Low- and Moderate-Income Unit, and in compliance with the Regulations and Guidelines and this Agreement; and that the Project and the Low- and Moderate-Income Units have otherwise been maintained in a manner consistent with the Regulations and Guidelines, this Agreement, and the Deed Rider then in effect with respect to each Low- and Moderate-Income Unit.

7. Upon execution, the Project Sponsor shall immediately cause this Agreement and any amendments hereto to be recorded/filed with the Registry, and the Project Sponsor shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Project Sponsor shall immediately transmit to EOHLC and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

8. The Project Sponsor hereby represents, covenants and warrants as follows:

(a) The Project Sponsor (i) is a nonprofit, 501c3 organization, duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Project Sponsor (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Project Sponsor is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Project Sponsor will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by EOHLC, or other permitted encumbrances, including mortgages referred in paragraph 10, below).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Project Sponsor, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially or adversely affect its financial condition.

9. (a) Except for sales of Low- and Moderate-Income Units to Eligible Purchasers and sales of other Units to unit owners in the ordinary course of business as permitted by the terms of this Agreement, the Project Sponsor will not sell, transfer, lease, or exchange the Project or any portion thereof or interest therein (collectively, a “Sale”) or (except as permitted under Section (d) below) mortgage the Property without the prior written consent of EOHLC and the Municipality.

(b) A request for consent to a Sale shall include:

- A signed agreement stating that the transferee will assume in full the Project Sponsor’s obligations and duties under this Agreement, together with a certification by the attorney or title company that it will be held in escrow and, in the case of any transfer other than a transfer of Beneficial Interests, recorded in the Registry of Deeds with the deed and/or other recorded documents effecting the Sale;
- The name of the proposed transferee and any other entity controlled by or controlling or under common control with the transferee, and names of any affordable housing developments in the Commonwealth owned by such entities;

- A certification from the Municipality that the Project is in compliance with the affordability requirements of this Agreement.

(c) Consent to the proposed Sale shall be deemed to be given unless EOHLC or the Municipality notifies the Project Sponsor within thirty (days) after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or
- The Project is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

(d) The Project Sponsor shall provide EOHLC and the Municipality with thirty (30) day's prior written notice of the following:

- (i) any change, substitution or withdrawal of any general partner, manager, or agent of the Project Sponsor; or
- (ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in the Project Sponsor (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).
- (iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of the Project Sponsor's interest in the Project or any party of the Project.

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation.

Notwithstanding the above, EOHLC's consent under this Section 10 shall not be required with respect to the grant by the Project Sponsor of any mortgage or other security interest in or with respect to the Project to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee

of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Project by deed in lieu of foreclosure), subject, however to the provisions of Section 14 hereof.

The Project Sponsor hereby agrees that it shall provide copies of any and all written notices received by the Project Sponsor from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

10. Until such time as decisions regarding repair of damage due to fire or other casualty, or restoration after taking by eminent domain, shall be made by a condominium association or trust not controlled by the Project Sponsor, (or if the Project consists of detached dwellings, by homebuyers) Project Sponsor agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Project Sponsor will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of this Agreement, subject to the approval of the Project's lenders, which lenders have been approved by EOHLC and the Municipality.

11. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

12. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

EOHLC: Executive Office of Housing and Livable Communities
Attention: Local Initiative Program Director
100 Cambridge Street, Suite 300
Boston, MA 02114

Municipality:
Town Manager
Town of Concord
22 Monument Street
Concord, MA 01742

Project Sponsor: Habitat for Humanity of Greater Lowell
68 Tadmuck Road, Unit 1
Westford MA 01886

13. (a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement shall bind, and the benefits shall inure to, respectively, the Project Sponsor and its successors and

assigns, and EOHLC and its successors and assigns and the Municipality and its successors and assigns. EOHLC has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement shall be perpetual, provided however, that this Agreement shall terminate if (a) at any time hereafter there is no Low- and Moderate-Income Unit at the Project which is then subject to a Deed Rider containing the Resale Restrictions, and there is no Low- and Moderate-Income Unit at the Project which is owned by the Municipality or EOHLC as provided in Section 4 hereof. The rights and restrictions contained in this Agreement shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Project.

(b) The Project Sponsor intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Project Sponsor's successors in title, (ii) are not merely personal covenants of the Project Sponsor, and (iii) shall bind the Project Sponsor, its successors and assigns and enure to the benefit of EOHLC and its successors and assigns for the term of the Agreement. Project Sponsor hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

(c) The Resale Restrictions contained in each of the Deed Riders which are to encumber each of the Low- and Moderate-Income Units at the Project pursuant to the requirements of this Agreement shall also constitute an affordable housing restriction as that term is defined in G.L. c. 184, §31 and as that term is used in G.L. c. 184, §§26, 31, 32, and 33. Such Resale Restrictions shall be for the benefit of both EOHLC and the Municipality and both EOHLC and the Municipality shall be deemed to be the holder of the affordable housing restriction created by the Resale Restrictions in each of the Deed Riders. EOHLC has determined that the acquiring of such affordable housing restriction is in the public interest. To the extent that the Municipality is the holder of the Resale Restrictions to be contained in each of the Deed Riders, the Director of EOHLC by the execution of this Agreement hereby approves such Resale Restrictions in each of the Deed Riders for the Low- and Moderate-Income Units of the Project as required by the provisions of G.L. c. 184, §32.

14. The Project Sponsor and the Municipality each agree to submit any information, documents, or certifications requested by EOHLC which EOHLC shall deem necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

15. (a) The Project Sponsor and the Municipality each covenant and agree to give EOHLC written notice of any default, violation or breach of the obligations of the Project Sponsor or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If EOHLC becomes aware of a default, violation, or breach of obligations of the Project Sponsor or the Municipality hereunder without receiving a Default Notice from Project Sponsor or the Municipality, EOHLC shall give a notice of such default, breach or violation to the offending party

(with a copy to the other party to this Agreement) (the “EOHLC Default Notice”). If any such default, violation, or breach is not cured to the satisfaction of EOHLC within thirty (30) days after the giving of the Default notice by the Project Sponsor or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the EOHLC Default Notice, then at EOHLC's option, and without further notice, EOHLC may terminate this Agreement, or EOHLC may apply to any state or federal court for specific performance of this Agreement, or EOHLC may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

(b) If EOHLC elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 16(a), then the Low- and Moderate-Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed SHI Eligible Housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory. The foregoing sentence shall not apply to Low- and Moderate-Income Units that have been conveyed in compliance and remain in compliance with Section 3 of this Agreement.

16. The Project Sponsor represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed the Consent and Subordination of Mortgage to Regulatory Agreement attached hereto and made a part hereof.

17. EOHLC may delegate to the Municipality any of its oversight and enforcement responsibilities under this Agreement, with the agreement of the Municipality, by providing written notice of such delegation to the Project Sponsor and the Municipality.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

Executed as a sealed instrument as of the date first above written.

PROJECT SPONSOR
Habitat for Humanity of Greater Lowell, Inc

By: _____
Its:

EXECUTIVE OFFICE OF HOUSING AND
LIVABLE COMMUNITIES

By: _____
Its:

MUNICIPALITY
Town of Concord

By: _____
Its:

Attachments: Exhibit A - Legal Property Description
Exhibit B - Prices & Location of Low & Moderate Income Units
Exhibit C - Form of Deed Rider

Consent forms signed by any and all mortgagees whose mortgages are recorded prior to this Regulatory Agreement must be attached to this Regulatory Agreement.

© EOHLC When used in the Local Initiative Program, this form may not be modified without the written approval of the Executive Office of Housing and Livable Communities.

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss.

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ of the _____ [Project Sponsor], and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF SUFFOLK, ss.

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ for the Commonwealth of Massachusetts acting by and through the **Executive Office of Housing and Livable Communities**, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____,ss. _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ for the **Town of** Concord, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

**CONSENT AND SUBORDINATION OF MORTGAGE
TO REGULATORY AGREEMENT**

Reference is hereby made to a certain Mortgage dated _____ given by _____ to _____, recorded with the _____ Registry of Deeds at Book _____, Page _____ (“Mortgage”).

The Undersigned, present holder of said Mortgage, hereby recognizes and consents to the execution and recording of this Agreement and agrees that the aforesaid Mortgage shall be subject and subordinate to the provisions of this Agreement, to the same extent as if said Mortgage had been registered subsequent thereto. The Undersigned further agrees that in the event of any foreclosure or exercise of remedies under said Mortgage it shall comply with the terms and conditions hereof.

[NAME OF LENDER]

By: _____
Its:

(If the Project has more than one mortgagee, add additional consent forms.)

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ of _____ Bank, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT A

Re: 365-367 Commonwealth Condominium
(Project name)
Concord, MA
(City/Town)
Habitat for Humanity of Greater Lowell, In
(Developer)

Property Description

The Condominium Unit known as Unit 2 (the "Subject Unit"), in the Condominium known as 365-367 Commonwealth Condominium, a condominium (the "Condominium") established by Master Deed dated [insert date] and recorded with Middlesex South District Registry of Deeds (the "Registry") in Book [xxxx], Page [xxx], having a street address of 367 Commonwealth Avenue, Concord, Massachusetts 01742.

EXHIBIT B

Re: 365-367 Commonwealth Condominium
 (Project name)
Concord, MA
 (City/Town)
Habitat for Humanity of Greater Lowell, In
 (Developer)

Maximum Selling Prices, Initial Condominium Fees, and Percentage Interest Assigned to Low- and Moderate-Income Units

	<u>Sales Price</u>	<u>Condo Fee</u>	<u>% Interest</u>
One-bedroom units	\$ _____	\$ _____	_____
Two-bedroom units	\$ <u>\$228,000</u>	\$ <u>100</u>	<u>50%</u>
Three-bedroom units	\$ _____	\$ _____	_____
Four-bedroom units	\$ _____	\$ _____	_____

Location of Low- and Moderate-Income Units

The housing units which are Low- and Moderate-Income Units are those designated as Unit 2 _____ on:

- a plan of land entitled _____ recorded with the _____ Registry of Deeds in Book _____, Page _____.
- floor plans recorded with the Master Deed of the _____ recorded with the _____ Registry of Deeds in Book _____, Page _____.

The Subject Unit is shown on a plan entitled "365-367 Commonwealth Avenue Condominium Site Plan in Concord, Massachusetts (Middlesex County) for: Concord Housing Authority", Scale: 1"=10', dated September 25, 2023, prepared by Stamski and McNary, Inc. (the "Condominium Plans") recorded with the Registry recorded with Middlesex South District Registry of Deeds (the "Registry") in Book [xxxx], Page [xxx].



Town of Concord White Pond Task Force

Final Report
December 2023

The members of the White Pond Task Force respectfully submit this report to the Town of Concord Select Board.

Introduction

White Pond is a 40-acre Great Pond in the Town of Concord. The pond is an ecological, scenic, and recreational resource that must be protected for future generations to enjoy. The Town of Concord owns 34% of the frontage on the pond. The Commonwealth of Massachusetts holds fishing rights with access via a state road and boat launch adjacent to the Town Beach. The remaining pond frontage is privately held.

The land owned by the Town of Concord is used for recreation at the Town Beach and open space at Sachem's Cove. Recent changes in the White Pond watershed such as the acquisition of the Town Beach as well as planned extension of the Bruce Freeman Rail Trail and the Cold Brook Crossing development call for the establishment of the best practices needed to protect the pond and the watershed.

The White Pond Task Force began the work set out in the Charge in January 2023. Throughout the year the Task Force has held regular meetings and has researched the primary challenges facing the pond and the watershed. This was accomplished by soliciting the expertise and opinions of the relevant Town staff, outside consultants, and other town committee members as well as by soliciting public input via an online survey.

The Task Force made every effort to include the largest group of stakeholders possible. The following list of prioritized recommendations was developed based on the feedback and information the Task Force has received over the past year.

White Pond Task Force Mission Statement

Protect White Pond's ecological health and scenic beauty for the enjoyment of this and future generations.

Recommendations

- 1) Support the deployment and maintenance of the A-pods.
- 2) Continue testing of water quality to assess swimming safety.
- 3) Support funding of the Conservation Ranger program focused on compliance with the Town's Conservation Land Regulations, with increased ranger time at Sachem's Cove on summer weekend days.
- 4) Enforcement of parking laws on the State access road/surrounding roads/neighborhoods, and the checking of White Pond membership at the parking lot entrance (versus membership checks at the town beach during the swimming season).
- 5) Support improved public outreach including the addition of permanent signage in Sachem's Cove with information about available swimming facilities at the Town

Beach and the adverse ecological impacts of the destruction of vegetation, addition of nutrients via human and dog waste, etc. Continue to send the “Homeowners Guide to Living Near White Pond” to new residents on the pond regarding appropriate care and maintenance of their properties to maintain pond health, e.g., reduced use of fertilizers and the addition of plantings. (Please see examples of desired permanent signage in the attached addendum)

- 6) Continue to evaluate the stocking of Rainbow Trout due to impact on Phytoplankton and potential increase in cyanobacteria blooms.
- 7) Support maintenance of the pond’s ecological health with the off-season deployment of trash receptacles and portable toilets at the Town Beach, funding for DPW maintenance of the state boat ramp run-off mitigation, and maintenance of erosion controls on town-owned land, including new native plantings as appropriate.
- 8) Support the update of the town-wide wastewater management plan including a review of the potential for sewerage septic systems that are near the shore on the north side of the pond.

Future White Pond Team

Establish White Pond Committee (structure TBD) to meet periodically as a coordinating body with the goal of continuing the White Pond Task Force Charge and Mission reporting to the Select Board.

Addendum

The photos included on Page 4 are for reference only. These photos are examples of permanent signage noted in Recommendation 5.

Submitted by the White Pond Task Force – December 2023



January 4, 2024

Subject: White Pond Task Force Minority Report

Dear Members of the Select Board:

The White Pond Task Force was charged with developing a prioritized list of activities for the protection of the watershed, articulating and delineating roles and responsibilities among interested parties and making recommendations regarding the future role of the White Pond Advisory Committee. At its last meeting, the Task Force voted on a final report that will be presented to the Board on January 8, 2024. Because the Task Force voted not to include any rationale for its recommendations or minority opinions, we are writing to fill some of those holes.

Let us start off by saying that as a result of long-standing stewardship of the pond by citizen groups and in recent years by the Town, White Pond is in great shape. In its 2015 White Pond Watershed Management Plan Report, paid for by the Town with Community Preservation Act funds, the Town's consultant, ESS Group reported that water quality is "very good to excellent." That being said, there several measures recommended by the Task Force that could further protect the pond. These include Select Board support for funding of the following (in my words):

- **Acquisition and maintenance of the A-pods.** We are fortunate that there have been no cyanobacteria blooms in the past two years. That may have been the result of the Town's management of the pond, dissipation of nutrients associated with the new landscaping the beach, or just luck. The scientific community is not yet capable of predicting when and where cyanobacteria blooms will occur. The A-pods appear to be an effective method of both reducing phosphorus input from pollen deposition (likely a large source of phosphorus to the pond) and keeping algal blooms isolated from the Town beach. For those reasons alone, the use of the A-pods should be continued.
- **A Conservation Ranger(s) who will devote more time on Sachem's Cove on hot, summer weekend days.** While crowds swimming and leaving trash at Sachem's Cove have significantly decreased from historical times when Sperry Corporation ran a beach for their employees and families and residents of neighboring towns were bused to the pond, the community strongly feels that the presence of a Ranger will further decrease illegal activities during peak hours. We don't live at the pond but visited frequently this summer. We never noticed large crowds or lots of trash. This may be, at least in part, to the presence of the Ranger and thus should be continued.
- **Extending the season for the deployment of trash receptacles and portable toilets.** Trash and sanitary facilities at the beach during the Recreation Department season have helped in protection of the pond. However, walkers, swimmers, fishermen, etc. are present beyond that short season. The lack of such facilities could adversely impact the pond.
- **The operation and maintenance of the stormwater system at the state boat ramp and maintenance of erosion controls on town-owned land.** The Town is to be applauded for recent

improvements at the Town Beach, the State Boat Ramp, and on the Town property around Sachem's Cove. It is critical that these improvements continue to be maintained.

- **Updating the towns wastewater management plan.** The Town's 2003 Comprehensive Wastewater Management Plan recommendation of a small treatment system for the White Pond area was not approved by residents of the area. Since that time, there have been improvements in many of the septic systems around the pond and increased understanding of the potential for phosphorus loading from the septic systems to the pond. It may be that only a small number of septic systems, specifically those within 50 feet or so of the pond on the north (upgradient) side of the pond would benefit from off-site treatment. A smaller treatment system than that recommended in 2003 to address only these septic systems would be cost effective and should be explored.
- **Expanded public education efforts (signage, brochures, etc.) on best practices for pond management such as proper septic system maintenance, limited use of fertilizers, keeping dogs on leash, and staying on trails.** The Natural Resources Department has developed a comprehensive brochure on best management practices for residents abutting the pond. This should be sent to all new property owners upon purchase and periodically as a reminder to existing residents. In addition, permanent signage along the Bruce Freeman Rail Trail explaining the value good conservation practices (e.g., staying on trails and keeping dogs leashed) provide to the health of the pond and at Sachem's Cove would undoubtedly improve behavior of some users to some degree.

In addition to those mentioned above, the Task Force included other recommendations that in our opinion have little to do with protection of the watershed, ignore documented science, and/or appear to us to be aimed solely at restricting access to the pond.

- **Water Quality Testing:** The Task Force recommended continuation of water quality testing to assess swimming safety. While it is obviously essential that the Town continue bacterial testing at the swimming beaches in compliance with Massachusetts Department of Public Health Regulations, cyanobacteria and cyanotoxin testing if no bloom is present is of questionable value. This type of testing requires considerable Health Department effort and has yet to provide any practical value. The Health Department has considerable expertise in testing associated with algal blooms. Decisions as to the type and frequency of testing is best left to their discretion.
- **Parking:** The Task Force recommended enforcement of parking laws on the State access ramp/surrounding roads/neighborhoods, and the checking of White Pond membership at the parking lot entrance (versus membership checks at the Town Beach during the swimming season). No justification was offered for how parking restrictions on paved ways will protect the watershed. As far as we can tell, the purpose of this is merely to restrict access to the pond.
- **Stocking of the Pond:** The Task Force recommended continued evaluation of the stocking of Rainbow Trout due to potential impacts on cyanobacteria blooms. In response to this concern, in 2022, the Town retained Nancy Leland, an expert in evaluation and quantification of cyanotoxins, to investigate this. Her evaluation and results are documented in her January 2023 report to the Town, in which she states unequivocally that stocking of the trout had no impact on zooplankton population and thus no impact on cyanobacteria blooms. The Task Force also expressed concern that fish that were not caught and sank to the bottom of the pond posed a

significant input of phosphorus. Fish stocking was evaluated by ESS and found to constitute only 2% of the phosphorus load to the pond – an insignificant contribution. The primary source of phosphorus is currently thought to be atmospheric deposition (pollen). The other major contributors, surface runoff from shoreline erosion and the state boat ramp have been addressed by the Town. The Massachusetts Division of Fisheries and Wildlife has a long standing program of stocking trout in the Commonwealth's Great Ponds and has a robust following of people that fish for the trout. There is not a scientific basis or any evidence for objecting to this program on the grounds of trout impact to cyanobacteria-eating zooplankton.

Lastly, the Task Force voted to recommend establishment of a White Pond Committee (structure to be determined), reporting to the Select Board, to meet periodically as a coordinating body with the goal of continuing the Task Force Charge and Mission Statement. We disagree. There are several Town departments – Conservation, Health, Public Works, and Recreation – that all have a role in protection of the watershed and there certainly could be better coordination among departments. There is also an existing citizen group – The Friends of White Pond- has assumed stewardship responsibilities for the pond at least as far back at least as the 1980s. In the past, the Friends have been very active retaining divers to remove debris from the pond bottom, organizing trash cleanups, revegetating denuded slopes, building a database of septic systems in the watershed, and collecting basic pond water quality data (temperature, dissolved oxygen, and turbidity). These efforts are to be commended and we recommend that they be continued by the Friends.

While there have been many changes around the pond in recent years and the impacts of some of them, such as the Bruce Freeman Rail Trail, have yet to be felt, the White Pond Task Force provided no new or novel analysis. No prioritized list of activities was developed nor was there any articulation as to the roles and responsibilities among interested parties. don't anticipate that a future White Pond Committee will bring anything new to the table.

Thanks for your consideration.

Sincerely

Elissa Brown and John Colman
Members of the White Pond Task Force

Number	Article Name	Sponsor	Public Hearing
1	Choose Town Officers	Select Board	N/A
2	Hear Reports	Select Board	N/A
3	Meeting Procedure	Finance Committee	Finance Committee
4	Ratify Personnel Board Classification Actions	Personnel Board	Select Board
5	Ratify Personnel Board Classification and Compensation Plan	Personnel Board	Select Board
6	Personnel Bylaw Amendments	Personnel Board	Select Board
7	FY24 Town Budget Line Item Adjustments	Chief Financial Officer	Finance Committee
8	FY25 Town Budget	Town Manager	Finance Committee
9	Capital Improvement and Debt Plan	Town Manager	Finance Committee
10	OPEB Trust Fund Appropriation	Chief Financial Officer	Finance Committee
11	OPEB Trust Fund Expense	Chief Financial Officer	Finance Committee
12	Appropriation to the Opioid Prevention Programs Fund	Chief Financial Officer	Finance Committee
13	Funding Public Safety during the Concord250 Celebrations in 2025	Concord 2025 Executive Committee	Finance Committee
14	Use of Free Cash	Finance Committee	Finance Committee
15	Establish a Permanent Senior Means Tested Property Tax Exemption	Board of Assessors	Finance Committee
16	Create Stormwater Enterprise Fund	Public Works Commission	Finance Committee
17	Nagog Pond Improvements and PFAS Mitigation	Public Works Commission	Finance Committee
18	Select Board to Accept Easements	Public Works Commission	Select Board
19	Minuteman Regional Technical High School District Budget	Minuteman Regional School District	Finance Committee
20	Concord-Carlisle Regional High School Budget	Concord Carlisle Regional School Committee	Finance Committee
21	Concord-Carlisle Regional High School Amenities Building	Concord Carlisle Regional School Committee	Finance Committee
22	Concord Public Schools Budget	Concord School Committee	Finance Committee
23	Concord Public Schools Capital Projects	Concord School Committee	Finance Committee
24	Appropriation to Middle School Stabilization Fund	Finance Committee	Finance Committee
25	Authorize New Middle School Naming - Name the New Concord Middle School Ellen Garrison Middle School	Diversity, Equity, & Inclusion Commission	Select Board
26	Town Meeting Study Committee	Town Moderator	Select Board
27	Citizen Petition: Town Meeting Voting Reform	Dinos Gonatas	Select Board
28	Citizen Petition: Remote Participation at Annual and Special Town Meetings	Scott Gillis & Mark Martines	Select Board
29	Citizen Petition: Use of Hand-Held Electronic Voting at Town Meetings	Scott Gillis & Mark Martines	Select Board

30	Authorize Changes to Previously Filed Home Rule Petition for Check Out Bag Charge	Agricultural Committee	Select Board
31	Update Town Goals to Meet the Climate Challenge	Climate Action Committee	Select Board
32	Fossil Fuel-Free Demonstration: Bylaw Amendments for Program Participation	Select Board	Select Board
33	In-Town Solar Expansion	Solar Implementation Task Force	Select Board
34	Zoning Bylaw Amendment: Zoning Map and MBTA Communities Multi-family Overlay District	Planning Board	Planning Board
35	Zoning Bylaw Amendment: Two-family Dwelling Unit in Residence B Zoning District	Planning Board	Planning Board
36	Zoning Bylaw Amendment: Floodplain Conservancy District	Planning Board	Planning Board
37	Zoning Bylaw Amendment: General Housekeeping - Multiple Sections	Planning Board	Planning Board
38	Citizen Petition: Citizen Support for a New Cell Tower Located at the Landfull at 755 Walden Street	Alisha Boyijan	Select Board
39	Citizen Petition: Citizen Support for a New Cell Tower Located at the Public Works Parcel at Keyes Road	Alisha Boyijan	Select Board
40	Community Preservation Appropriation Recommendations	Community Preservation Committee	Finance Committee
41	Authorize a Task Force to Review and Update the Charges, Policies, and Protocols of the Historic Districts Commission and Historical Commission	Diversity, Equity, & Inclusion Commission	Select Board
42	Tour Guide Bylaw Amendments	Select Board	Select Board
43	Amend Departmental Revolving Funds Bylaw	Town Manager	Finance Committee
44	Authorize Expenditure of Revolving Funds Under Mass. Gen. Laws 44 Sec. 53 E1/2	Town Manager	Finance Committee
45	Light Plant Expenditures and Payment in Lieu of Taxes	Town Manager	Finance Committee
46	Solid Waste Disposal Fund Expenditures	Town Manager	Finance Committee
47	Sewer System Expenditures	Town Manager	Finance Committee
48	Sewer Improvement Fund Expenditures	Town Manager	Finance Committee
49	Water System Expenditures	Town Manager	Finance Committee
50	Authorize Expenditure from PEG Access & Cable-Related Fund	Town Manager	Finance Committee
51	Beede Swim and Fitness Center Enterprise Fund Expenditures	Town Manager	Finance Committee

52	Unpaid Bills	Chief Financial Officer	Finance Committee
53	Debt Rescission	Chief Financial Officer	Finance Committee