

**TOWN OF CONCORD  
SELECT BOARD  
AGENDA  
SEPTEMBER 7, 2021  
6:30 PM  
VIDEO CONFERENCE VIA ZOOM**

Join Zoom Meeting  
<https://us02web.zoom.us/j/84092395810?pwd=TnMyWmprWHBla21CczdQM0EvWVVFz09>  
 Meeting ID: 840 9239 5810  
 Passcode: 865209  
 One tap mobile  
 +16465588656,,84092395810# US (New York)  
 Dial by your location  
 877 853 5257 US Toll-free  
 888 475 4499 US Toll-free  
 Meeting ID: 840 9239 5810  
 Find your local number: <https://us02web.zoom.us/j/84092395810?pwd=TnMyWmprWHBla21CczdQM0EvWVVFz09>

#	Time	Agenda Item
1.	6:30pm	Call to Order
2.		Consent Agenda: <ul style="list-style-type: none"> <li>• Town Accountant Warrants: August 19, 2021; August 26, 2021; September 2, 2021</li> <li>• Gift Acceptance: Concord-Carlisle Community Chest, Inc gifts to the Council on Aging totaling \$17,696.50               <ul style="list-style-type: none"> <li>○ \$2,247.50 to the Volunteer Coordinator Account</li> <li>○ \$10,901.00 to the Outreach Worker Account</li> <li>○ \$4,548.00 to the Social Services Coordinator Account</li> </ul> </li> <li>• Gift Acceptance: Concord-Carlisle Youth Baseball gift to the Parks &amp; Trees Division of the Concord Public Works Department               <ul style="list-style-type: none"> <li>○ \$7,700.00 to the Ripley Field Baseball Account to be used for the purpose of supporting FY22 Ripley maintenance expenses</li> </ul> </li> <li>• Minutes to approve: June 28, 2021; July 12, 2021; July 12, 2021 Executive Session (not to be released); July 19, 2021; July 26, 2021; August 16, 2021 Executive Session (not to be released)</li> <li>• One Day Special Liquor Licenses               <ul style="list-style-type: none"> <li>○ Concord-Carlisle Youth Hockey 10/8/21 5:30pm-10:30pm 246 Old Road to 9 Acre Corner All Alcoholic Beverages</li> <li>○ Concord Museum 9/20/21 12:00pm-8:00pm 246 Old Road to 9 Acre Corner All Alcoholic Beverages</li> </ul> </li> </ul>
3.		Town Manager's Report
4.		Chair's Remarks
5.	6:45pm	Update on Hybrid Meeting Guidelines
6.		Town House Reopening: Office Hours, Staff Locations
7.		Town House Renovation Project
8.	7:15pm	Draft Charge for Personnel Board Study Task Force
9.		Amend DEI Commission Charge
10.		Amend Transportation Advisory Committee Charge

11.	8:00pm	ARPA Funding Plan Preliminary Discussion
12.	8:15pm	Committee Nominations: Richard Frese of 48 Walden Terrace, Beth Vanduzer of 4 Granite Post Road, Rosa Hallowell of 19 Sudbury Road, David Wood of 226 Lexington Road, and Matthew McGrath of 134 Belknap Street to the Civil War Monument Task Force for terms to expire at the completion of the project. Isabel Bailey of 121 Everett Street, Robert Elkind of 82 Shadyside Avenue, Janet Rothrock of 618 Annursnac Hill Road, and Christina Scherer of 97 Highland Street to the Pollinator Health Advisory Committee for terms set to expire April 30, 2024. Ruth Lauer of 100 Keyes Road and Claude Cicchetti of 994 Old Road to 9 Acre Corner to the Personnel Board Study Task Force for terms to expire May 31, 2022
13.		Committee Appointments: Jim Ricker of 68 Shore Drive to the White Pond Advisory Committee for a term to expire on April 30, 2024. Gordon Brockway of 112 Hill Street to be the Light Board representative on the Fiber Broadband Completion Task Force for a term to expire February 1, 2022. Scott Hopkinson of 67 Indian Spring Road to be the PEG Access Advisory representative to the Fiber Broadband Completion Task Force for a term to expire February 1, 2022. David Hesel of 30 Concord Greene be the HOA representative on the Fiber Broadband Completion Task Force for a term to expire February 1, 2022. Mark Howell of 668 Annursnac Hill Road and Gail Hire of 54 Nancy Road to be the at large representatives on the Fiber Broadband Completion Task Force for terms to expire February 1, 2022
14.		Committee Liaison Reports
15.		Miscellaneous Correspondence
16.		Public Comments
17.	8:45pm	Adjourn

Note: All times are approximate and subject to change.

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Pursuant to notice duly filed with the Town Clerk, the Concord Select Board convened in a meeting both via Zoom and in person at 141 Keyes Road on June 28, 2021 at 5:00pm.

Present were Terri Ackerman, Chair; Matthew Johnson, Clerk; Henry Dane, Susan Bates, and Linda Escobedo. Also present was Stephen Crane, Town Manager.

**Call to Order**

Ms. Ackerman reported that this was the first Select Board meeting in person since March 9, 2020. The meeting is also being broadcast live via Zoom and Minuteman Media Network.

**Consent Agenda**

- Town Accountant Warrants: June 24, 2021; June 24, 2021 Sales Tax AP

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

**Town Manager's Report**

Mr. Crane reported that there was a fiber break beginning on Friday, June 25<sup>th</sup> at about 3:00pm that impacted a small number of customers, causing a cascading effect that resulted in persistent outages. Greg Marcinek, Director of Telecommunications with CMLP, reported that DHCP servers have been active and they believe that the outages should no longer be occurring. If residents are still experiencing outages, they should call 978-318-3199. Mr. Marcinek expressed regret and apology over the communications coming from the Town to its customers regarding the outage. Mr. Marcinek reported that they are still analyzing everything that happened leading up to the outage in order to understand exactly what happened, and will be returning to the Select Board with a report at their next meeting on July 12.

As of last week, the Town is registered with the Commonwealth to receive funding from the American Rescue Plan Act of 2021 (ARPA), and will be receiving 50% of the amount allotted once the Department of Revenue begins the distribution process. At this time, Town departments are reviewing needs and will be preparing information to review with the Select Board sometime in July. The Town has been allocated \$5,654,619. Mr. Crane reported that the Town is looking at priorities from the department level in order to begin preparing proposals for the use of funds. Mr. Crane noted economic vitality, infrastructure, and broadband as potential focuses for the use of funds.

The Planning Board and MAPC held the Thoreau Business District public forum on June 22<sup>nd</sup>. MAPC presented potential changes to the district and there were breakout sessions for

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participants in order to obtain feedback, identify issues, and share initial thoughts. MAPC will continue incorporating feedback and prepare a final report for the Planning Board in the coming months.

CPW will begin the Monument Street culvert repair work on June 28. This work will continue through the end of August.

Tourism Director Beth Williams provided a report from the Visitor Center in May 2019 (pre-pandemic) compared to May 2021.

May 2019: 1256 visitors; \$948 in revenue

May 2021: 1052 visitors, \$4,056 in revenue

Mr. Crane noted the Town is working on a request to create an Economic Vitality Division within the Department of Planning and Land Management.

**Chair's Remarks**

Ms. Ackerman noted changes to the FY22 committee liaison list. The final list is available on the [Town website](#).

Ms. Ackerman notified the board that they will be holding a goals setting session on July 19<sup>th</sup>. Ms. Ackerman requested that the board review the FY21 Select Board goals and prepare draft goals for FY22.

**FY21 Revolving Fund Budget Adjustment**

Regional Housing Services Office Director Elizabeth Rust has asked that the Town consider a budget adjustment for the Regional Housing Services Revolving Fund for FY21. The FY21 Budget for this revolving fund was approved under Article 12 of the 2020 Annual Town Meeting in the amount of \$275,000. Ms. Rust is requesting an FY21 Budget adjustment of \$56,000, for a total FY21 Budget of \$331,000, to account for the increase in contracted services, which is fully offset by fees collected for those services. The Select Board and Finance Committee have the authority to approve budget adjustments. The Finance Committee approved this request on June 24<sup>th</sup>.

Mr. Johnson proposed that the Town bring permanent budget increases to Town Meeting since this ask appears to be becoming a routine. Ms. Rust responded that the Town's Chief Financial Officer Kerry Lafleur would prefer to stick to what the most realistic budget would be, and then make any potential adjustments as needed later in the fiscal year.

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Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve an FY21 Budget adjustment of \$56,000 for the Regional Housing Services Revolving Fund, for a total FY21 Budget of \$331,000, to account for the increase in contracted services, which is fully offset by fees collected for those services.

**Discuss and Adopt Capital Planning Task Force Recommendations**

The Capital Planning Task Force recently completed their work of outlining a capital planning process for Concord to follow, and has prepared the following recommendations for the Select Board to consider moving forward:

- A. A long-term capital planning process for very large projects be adopted by the Select Board and School Committee incorporating the following elements:
- A long-term capital plan that is updated on an annual basis and includes School and Town projects
  - Project evaluation criteria
  - A specific process to create and update the long-term capital plan
  - A specific timetable for presentation of the long-term capital plan in public forums to encourage input from citizens.
- B. A “very large project” (referred to as a Tier III project) be defined as any project exceeding a cost of \$5 million or a project that has two or more phases totaling \$5 million or more (2020 dollars).
- C. Recommendations from this report be formally integrated into current town and school policies and practices for capital planning to create a 10-year Capital Plan and debt capacity analysis, for use by the Finance Committee for preparation of 5-year tax projections.
- D. A debt template be designed to summarize and present future Tier III “very large projects” to analyze impact on taxpayers, potential sequencing of projects, and for updating annually.
- E. Annually, make available for citizen input the integrated Town and School Tier III project list showing, priorities, climate criteria evaluation, project timing, and debt sequencing.

The task force recommended that the capital planning process is embedded into the Town’s annual calendar. This would embed the following meetings into the Town calendar:

- September: joint meeting of the Select Board and School Committee to present the draft long-term capital plan and receive public feedback
- November: Town Manager and School Superintendent present the long-term capital plan to the Finance Committee

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- December: joint meeting of the Select Board and School Committee to discuss and approve the revised long-term capital plan and incorporate specific spending into the ATM Warrant process.

Ms. Ackerman reported that the Finance Committee was comfortable with these recommendations. The Select Board was generally supportive of the recommendations in discussion, while noting that follow up work was needed to embed the dates for these meetings into the Town calendar.

Upon a motion duly made and seconded, it was UNANIMOUSLY **VOTED:** to accept the recommendations A through E as written in the packet this evening for the long term capital planning process.

**Vote to Disband Capital Planning Task Force**

The Capital Planning Task Force has completed their work and produced a final report. The Select Board has embedded capital planning functions into their annual calendar moving forward.

Upon a motion duly made and seconded, it was UNANIMOUSLY **VOTED:** that the work of the Capital Planning Task Force is complete and the committee is hereby disbanded.

**Finalize Process and Forms for Town Manager Evaluation**

The Select Board is beginning the process of the annual Town Manager evaluation. Ms. Ackerman has incorporated comments received from board members regarding the evaluation process. The Select Board will be utilizing the candidate profile to evaluate Mr. Crane, which was referenced during his hiring process.

Ms. Ackerman and Human Resources Director Amy Foley met with Concord Consulting (located in Alberta, Canada) seeking their assistance with the evaluation process. The cost for their services mushroomed from \$500.00 into \$8,000.00, and the service they offered did not match what we are looking for at this time. Instead, the Town will utilize Survey Monkey for employee evaluations. A paralegal at the labor counsel office will then compile all of those into one final staff report. Select Board members will drop their evaluations in a sealed envelope in a drop box, which Ms. Ackerman will then compile into a summary Select Board report. The Town Manager will write a self-evaluation as well.

Ms. Ackerman was seeking the consensus from the board on this process and then to let her and Ms. Foley finalize the details. The board was generally comfortable with the process and will aim

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to have all of the evaluations completed by July 9.

**Initial discussion of 2025 Executive Committee**

Mr. Dane prepared draft amendments to the Concord 2025 Executive Committee charge. Mr. Dane pointed out that the event was 4 years away and the committee is not up and running yet, but had a fully operational committee 8 years ahead of the 200<sup>th</sup> anniversary in 1975.

Other Select Board members pointed out that the charge was already approved in February 2021, and therefore the priority should be to get people appointed to the committee rather than to amend the charge at this time. Members generally agreed that they should get a committee appointed and then let the work of the committee dictate the needs for potential changes to the charge moving forward.

There were no motions made on this topic.

**Appoint SB member to Concord 2025 Executive Committee**

The Select Board is required to appoint a representative to the Concord 2025 Executive Committee. The Select Board determined Henry Dane would be the representative for this committee.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to appoint Henry Dane to be the Select Board representative to the Concord 2025 Executive Committee.

**Committee Nominations**

There were no nominations.

**Committee Appointments:**

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to appoint Deborah Adelman of 1 Abbot Lane to the Bruce Freeman Rail Trail Advisory Committee for a term to expire on April 30, 2024. Ann Sussman of 534 Old Marlborough Road to the West Concord Advisory Committee for a term to expire on April 30, 2024. Melinda Shumway of 365 Garfield Road to the Historic Districts Commission for a term to expire on January 1, 2026.

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**Committee Liaison Reports**

Ms. Bates attended the Conservation Restriction Stewardship Committee, where they discussed conservation properties that two members will be assigned to review and produce a report about potential misuses of the properties. The Planning Board held a Thoreau Business District information session, where participants broke into smaller discussion groups throughout the session. The Council on Aging discussed their need for new members, and reviewed their updated mask guidance. Residents are welcome to wear masks at the COA if they choose, but it is not mandatory for vaccinated individuals. The Natural Resources Commission approved the latest White Pond design plan.

Mr. Dane attended the Library Committee, where they reported that the book sale will be on September 11, and Sherry Litwack of the Library Corporation reported that the library renovations will be completed in 2022. National Grid's Multi-Town Gas Leak group reviewed a PowerPoint of upcoming scheduled gas line preventative maintenance in the region.

Mr. Johnson also attended the Planning Board's Thoreau Business District redevelopment forum, where they continued to collect feedback on the project. The Middle School Building Committee hosted the architect for the project, who presented on the selection of materials being used in the construction and the aesthetics.

Ms. Escobedo attended the Junction Village Open Space Task Force meeting, where they hosted an environmental architect to participate in a brainstorming session for potential uses of the site. The use of this site needs to connect to the needs of the residents at the forthcoming Christopher Heights assisted living development.

Ms. Ackerman attended the Finance Committee, where they reported one vacancy on the committee and reviewed the recommendations of the Capital Planning Task Force. The PEG Access Advisory Committee hosted a representative of the Department of Telecommunications as guest a speaker, and discussed their license renewal process. The PAAC is going to attend an upcoming Select Board meeting to discuss potentially revising their charge to decrease committee membership from 7 to 5 members, with only 3 citizens at large instead of 5.

**Miscellaneous Correspondence**

Miscellaneous correspondence was included in the meeting materials. The Select Board received correspondence from a variety of groups in support of the Town creating a DEI commission.

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**Public Comments**

There were no public comments.

**Adjourn**

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

**Meeting Materials:** <https://concordma.gov/2870/June-28-2021>

**Minuteman Media Network Coverage:** <https://www.youtube.com/watch?v=3X6pWExqM7g>

DRAFT

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Pursuant to notice duly filed with the Town Clerk, the Concord Select Board convened in a meeting both via Zoom and in person at 141 Keyes Road on June 28, 2021 at 5:30pm.

Present were Terri Ackerman, Chair; Matthew Johnson, Clerk; Henry Dane, Susan Bates, and Linda Escobedo. Also present was Stephen Crane, Town Manager.

**Call to Order**

Select Board Chair Terri Ackerman called the meeting to order at 5:30pm.

**Executive Session, to return to open session, to discuss strategy with respect to ongoing litigation regarding Symes Development & Permitting LLC v. Town of Concord et al., as an open meeting may have a detrimental effect on the litigating position of the Town as declared by the Chair.**

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to enter Executive Session, to return to open session, to discuss strategy with respect to ongoing litigation regarding Symes Development & Permitting LLC v. Town of Concord et al., as an open meeting may have a detrimental effect on the litigating position of the Town as declared by the Chair.

**Roll call vote**

Mr. Johnson: Aye  
Ms. Ackerman: Aye  
Ms. Escobedo: Aye  
Mr. Dane: Aye  
Ms. Bates: Aye

The Board returned to open session at 6:45pm.

**Consent Agenda**

- Town Accountant Warrants: July 1, 2021 CPS Expense Warrant; July 8, 2021 AP Warrants
- Minutes to approve: June 1, 2021 Executive Session (not to be released); June 13, 2021 June 21, 2021

The Select Board split the consent agenda into two parts, as Mr. Dane was not on the Select Board for the June 1, 2021 and June 13, 2021 meetings and therefore could not vote on the minutes. Mr. Dane will be voting present on the two sets of minutes.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve the Town Accountant Warrants of July 1, 2021 CPS Expense

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Warrant, July 8, 2021 AP Warrants, and the minutes of June 21, 2021.

Upon a motion duly made and seconded, it was UNANIMOUSLY  
**VOTED:** to approve the minutes of June 1, 2021 Executive Session (not to be released),  
and June 13, 2021.

Mr. Dane voted present.

**Town Manager's Report**

Town Manager Stephen Crane is away on vacation. Chief Financial Officer Kerry Lafleur was in attendance as the Acting Town Manager.

Ms. Bates asked if Ms. Lafleur could provide an update on the broadband outage. Ms. Ackerman noted that an update was given on July 7 at the Light Board meeting, and that representatives of CMLP would be providing a report to the Select Board on the July 26 meeting.

Ms. Ackerman commended Town departments for moving to online permitting. Additionally, Ms. Ackerman thanked the Fire Department for their rapid and thorough response to the fire at the Thoreau School.

**Chair's Remarks**

Ms. Ackerman acknowledged the passing of former Select Board member John Marabello on July 1, 2021. Mr. Marabello was born and raised in Concord, served two terms on the Select Board, worked as a special police officer and grand marshal. The funeral services are on July 14 at 10:30am at Holy Family Parish.

Some citizens recently have had challenges accessing board and committee Zoom meetings by clicking on hyperlinks on the agenda. The reason for this is that the Town's antiviral software has been screening these links for further authentication by users. The Town's IT Department is working to fix this. In the meantime, residents are encouraged to join meetings by entering the meeting ID and passcode listed on the agenda as opposed to simply clicking the hyperlink.

The Select Board has finalized their [committee liaison list](#) for FY22.

On July 19, the Select Board will hold a focused meeting solely dedicated to goal setting for FY22.

The Town has hired a DEI consultant. The Select Board will be receiving an initial report of the consultant's work in the coming weeks.

**Discussion of 2022 Annual Town Meeting Date**

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The Select Board, in conjunction with Town staff, are responsible for setting the date for town meeting. The Chief Financial Officer, Town Clerk, Town Moderator, School Superintendent, and Administrative Manager have recommended that the 2022 Annual Town Meeting be held indoors on either May 1 or May 8. Select Board members noted that May 8 is Mother's Day. Therefore, the board settled on May 1, 2022 as the date of the 2022 Annual Town Meeting. The Select Board will review and vote on a calendar prepared by the Town Moderator and Town Manager's Office reflecting all of the keys dates and action items meeting up to May 1 at an upcoming meeting.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to set the date of the 2022 Annual Town Meeting to May 1, 2022 at 1:00pm.

**Discuss Autumn Calendar for SB meetings**

Ms. Ackerman proposed a [meeting schedule](#) for the remainder of the calendar year. The Select Board discussed potential alternatives to meeting dates, but ultimately did not amend the calendar as proposed below. Ms. Ackerman noted that it is subject to change.

July 12 Regular meeting  
July 19 Focused meeting - Goal Setting session  
July 26 Regular meeting  
(Aug 2 no meeting)  
Aug 9 Regular meeting  
Aug 16 Focused meeting  
July 23 Regular meeting  
(Aug 30 no meeting)  
Sep 7 TUES Regular meeting  
(Sep 13 no meeting)  
Sep 20 Focused meeting –Brainstorming: Alternative Revenue for Middle School  
Sep 27 Regular meeting and Joint Mtg with School Comm. – Capital Planning  
Oct 4 Regular meeting  
(Oct 11 no meeting – Indigenous People's Day & Columbus Day)  
Oct 18 Focused meeting  
Oct 25 Regular meeting  
Nov 1 Regular meeting  
(Nov 8 no meeting)  
Nov 15 Focused meeting  
Nov 22 Regular meeting  
(Nov 29 no meeting – Hanukkah)  
Dec 6 Regular meeting and Joint Mtg with School Comm. – Capital Planning  
Dec 13 Focused meeting (if needed)  
Dec 20 Regular meeting

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(Dec 27 no meeting)

**Set Dates for Capital Planning Forums**

Following the recommendations of the Capital Planning Task Force, the Select Board is embedding capital planning into the Town's annual calendar. The Select Board will hold joint capital planning forums with the School Committee on September 27<sup>th</sup> and December 6<sup>th</sup>.

**Public Hearing: Application by Papa Razzi Trattoria of Concord located at 768 Elm Street for a new Alternate Manager of Record**

Upon a motion duly made and seconded, it was UNANIMOUSLY  
**VOTED:** to open the public hearing for the application by Papa Razzi Trattoria of Concord located at 768 Elm Street for a new Alternate Manager of Record.

Papa Razzi is applying for Amanda Ramos to be their new Alternate Manager of Record. Ms. Ramos is currently employed by Papa Razzi as a bartender. Ms. Ramos and Julian Maria, Manager of Papa Razzi, were in attendance.

There were no objections among from the Select Board to the application. There were no public comments.

Upon a motion duly made and seconded, it was UNANIMOUSLY  
**VOTED:** to close the public hearing.

Upon a motion duly made and seconded, it was UNANIMOUSLY  
**VOTED:** to grant the application by Papa Razzi Trattoria of Concord located at 768 Elm Street to assign Amanda Ramos as the new Alternate Manager of Record.

**Review PEG Access Advisory Committee Charge**

The PEG Access Advisory Committee has had difficulty in attaining a quorum of members for each of their meetings. In order to address this challenge, PAAC Chair Karlen Reed is proposing that the Select Board amend their charge so that the membership of the committee is reduced from 7 members to 5 members. Ms. Reed is also proposing that references to "Board of Selectmen" are changed to "Select Board" in order to reflect the updated terminology.

Ms. Escobedo noted that while she approves of the suggested reduction in membership in this specific instance, reducing the number of members on committees on a larger scale could lead to challenges in committees maintaining a diverse array of opinions.

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Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve the amendments to the PEG Access Advisory Committee charge as described in the meeting materials dated July 12, 2021.

**Discuss possible exemption of the 2025 Committee/Subcommittees from APP 10**

The Select Board is considering exemptions to the Town's policy for board and committee appointments (APP #10) in order to accommodate the needs of the Concord 2025 Executive Committee, which the Select Board established in February 2021 to prepare for the 250<sup>th</sup> anniversary of the American Revolution.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to amend the charge of the Concord 2025 Executive Committee by adding the words "d, e, and g", and striking the word "transfers" from the last sentence of 'Other Considerations' so it reads "given the number of citizens that may be asked to participate in committee related activities for their particular interest, expertise, and community connection, APP #10 section 7c, d, e, and g will not apply to this committee or its subcommittees."

**Discuss Size and Membership of the 2025 Executive Committee**

At their June 28<sup>th</sup> meeting, the Select Board discussed potential revisions to the Concord 2025 Executive Committee charge as proposed by Mr. Dane. The Select Board determined that they should leave intact the previously proposed membership. In order to begin the work of the committee as quickly as possible, the initial committee will be comprised of 9 members appointed by the Select Board starting immediately through June 2022. Beginning in July 2022, the membership will be expanded to 12 members. Board members noted that this committee is highly likely to break out into subcommittees as they take on the interdisciplinary components of planning this celebration.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to amend the charge of the Concord 2025 Executive Committee by deleting and replacing the Membership clause with the following: "The Committee shall be a 9-member committee with appointments made by the Select Board for the period of July 2021-June 2022, expanding to 12 members in July 2022. The initial representatives will be 9 individuals selected from any of the following groups, with all identified groups to be represented in July 2022:

Select Board or appointee (1)

Town (1)

Concord Public Schools/Concord-Carlisle Regional High School/Minuteman Technical High School (1)

Business Community (1)

Public Ceremonies and Celebrations Committee (PCCC) or Reenactment Community (1)

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Community members with a background in American history (1)  
Event planning and/or logistics expertise (1)  
Community leaders with fundraising experience (1)  
Civic or Community groups (1)  
Literature, Music, and the Arts Community (1)  
Concord Museum (1)  
Concord Library (1)”

**Committee Nominations**

There were no committee nominations.

**Town Manager Appointments with Select Board Approval**

Upon a motion duly made and seconded, it was UNANIMOUSLY  
**VOTED:** to accept the Town Manager appointment of Peter Nichol of 500 Walden Street and Ruthy Bennett of 114 Deer Grass Lane to the Climate Action Advisory Board for terms to expire on April 30, 2024.

**Committee Liaison Reports**

Ms. Bates attended the Economic Vitality Committee, where they discussed taking on outreach efforts including gathering survey data and conducting focus groups with local business. The goal is to understand the barriers to opening businesses in Concord. The West Concord Junction Cultural District Committee is looking for two new members, and is working on the renewal of the cultural district designation through the Mass Cultural Council. Concord Together is continuing the shopping passport program they launched last fall. Porch Fest will take place on September 25. The Disability Commission is looking to revise their charge, and is looking to work with the Planning Board to address the issue of housing accessibility.

Mr. Johnson attended the Concord Municipal Light Board, where they recapped the causes of the broadband outage that occurred in late June, as well as follow up actions to prevent a recurrence of an outage like this in the future. The Zoning Board of Appeals approved the first special permit for a two family under the new bylaw passed at 2021 Town Meeting. Concord Gas received a special permit for renovations. There was a discussion of Symes Development’s special permit application for earth removal, which was continued. The Concord Country Club was granted a special permit for the previous removal of earth without approval and the construction of an irrigation pond and pump house. Over 1,000 plantings will be made.

Mr. Dane attended the Agriculture Committee, where they discussed the challenges they are facing due to the high level of precipitation that has occurred in the region this summer. Ag Day will be held on Saturday, September 11. Mr. Dane added that he will be requesting the Select Board to appoint an ad hoc committee to study the inclusion of George Washington Dugan on

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the Civil War Memorial in Monument Square.

Ms. Escobedo attended the Historic Districts Commission, where they reviewed applications, and reported they had one vacancy. The Historical Commission had a discussion about renovations done to the shed at the Wheeler Harrington House by the current tenant without prior approval. They also reviewed the pavement improvements to Route 2A that are scheduled to occur before 2025. The HATS Committee discussed Hanscom's upcoming series of DEI activities, which will include using demographic data to inform decisions across their operations. Hanscom discussed new security improvements around the perimeter of their property, as well as activities planned for the 20<sup>th</sup> anniversary of 9/11.

Ms. Ackerman attended the School Committee, where they discussed the fire that occurred in the Thoreau School. The cause was an electric heater in the attic. 8 classrooms are currently unusable due to water damage. Dr. Hunter thanked Police and Fire for their response. Ms. Ackerman reported that she met with Personnel Board Chair Bill Mrachek, where they discussed opportunities for dialogue between the Select Board and Personnel Board.

**Miscellaneous Correspondence**

Miscellaneous correspondence was included in the meeting materials.

**Public Comments**

Pamela Dritt of 13 Concord Greene asked if it was possible for the ZBA to approve a special permit application if the application does not meet all of the application requirements. The Select Board responded that Ms. Dritt should direct this question to the ZBA.

**Adjourn**

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

**Meeting Materials:** <https://concordma.gov/DocumentCenter/View/30712/July-12-SB-Packet>

**Minuteman Media Network Coverage:** <https://www.youtube.com/watch?v=d7IIXAdn53k>

TOWN OF CONCORD  
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JULY 19, 2021

Pursuant to notice duly filed with the Town Clerk, the Concord Select Board convened in a meeting located at 141 Keyes Road and via video conference on July 19, 2021 at 6:30pm.

Present were Terri Ackerman, Chair; Matthew Johnson, Clerk; Henry Dane, Linda Escobedo, and Susan Bates. Also present was Stephen Crane, Town Manager.

**Call to Order**

Select Board Chair Terri Ackerman called the meeting to order at 6:30pm.

**Chair's Remarks**

Ms. Ackerman read a statement regarding recent problems that residents have experienced in accessing Town board and committee meetings via zoom. Ms. Ackerman explained that the Town has been working to enhance its current cyber security protocols, and has a spam filtering service that re-writes all incoming hyperlinks to ensure they do not point to malicious content, including the hyperlinks that are used to access public meetings. This software has occasionally been blocking access to these hyperlinks. Anyone wishing to attend a public meeting may, as an alternative to using the hyperlink, input the meeting ID and password on the Zoom website. This will bypass the spam filtering service.

Ms. Ackerman noted that the Town Manager evaluation has been received by staff and completed by the Select Board. The Town Manager is in the process of completing his self evaluation. The Chair will prepare a draft summary for review and comment by Select Board members, and the final evaluation will be schedule for next meeting.

**Annual Goal Setting Session**

Ms. Ackerman noted that the draft FY22 Select Board goals that are in the meeting materials are lengthy, and the board is hoping to consolidate this document tonight and finalize the goals at the next meeting. The Select Board is hoping to discuss deadlines, implementation, responsibility, and how the Select Board can assist others in accomplishing goals.

The Select Board reviewed the draft goals and consolidated it from 69 total goals at the start of the meeting to 49 goals by the end. The goals document that was determined at the end of the meeting is included below.

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**2021-2022 Select Board Goals**  
**DRAFT as of 7/19/21**

**Process**

The Concord Select Board annually affirms its values and guiding principles to align its goals and objectives for improving government as it interacts with the Town Manager, committees, task forces, citizens and other units of government. In so doing, the Board aims to lead and establish strategic priorities, to provide support and guidance and encouragement where appropriate and to be collaborative, open and inclusive at all times.

**Values and Guiding Principles**

Governance: Effective, responsive and transparent governance

Public Health and Safety: Utilization of best practices for the health and safety of all

Financial Stability: Fiscal responsibility, financial stability/sustainability, town-school collaboration and integration

Infrastructure: Sufficient and sustainable, well-maintained and reliable

Quality of Life: High level maintenance of town services for Concord citizens. Dignity and respect for all individuals

Balance and Equity: Balance and equity among divergent individual, neighborhood and town-wide interests

Diversity: Conscious decision making to support economic and social diversity and inclusion

Historic and Cultural Heritage: Preservation and promotion of historic and cultural heritage

Agricultural and Natural Resources: Protection and enhancement

Sustainability and Resilience: Sustainable management of energy resources, reduction of carbon emissions, and regeneration of our natural environment

Economic Resilience: Protecting the vitality of the town and businesses and reducing obstacles to their success

Regional and State Interests: Advancement of Concord's interest in the region and the commonwealth

**Goals and Objectives**

Specifically, the Board supports short and long-term goals and objectives in the following categories:

*Effective Governance, Board Organization, and Communication*

1. Provide ongoing support and advice to the Town Manager on leadership opportunities and issues. Conduct the annual evaluation of the Town Manager's performance and make determination on contract renewal.
2. Continue to support the Town Manager, town departments and town committees as they implement action steps from the *2030 Envision Concord Comprehensive Long-Range Plan* and other new priority areas in their current year goals.

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- a. Work with the Town Manager to lay out a 5-year plan for implementing the relevant action steps of 2030 Envision Concord.
  - b. Identify departmental goals and review progress with the Town Manager at the beginning and end of the of the fiscal year.
3. Approve a charge for and seat a new Fiber Broadband Completion Committee (ATM '21 Article 41).
4. Approve a charge for and seat a new study committee to review the current charge, bylaws, and function of the Personnel Committee. Evaluate recommendations and decide future charge of Personnel Board.
5. Provide guidance and resources for all Town volunteers serving on boards and committees to improve consistency and efficiency of public meetings and hearings. Restart annual training session for board/committee members on OML, ethics, and meeting management.
6. Continue to promote open and transparent government through enhanced use of technology and increased public access television.
7. Work to improve citizen communications by reviewing/implementing the citizen correspondence policy drafted in 2021. Continue regular publication of the Town Manager's report.
8. Recruit new committee volunteers that reflect all segments of Concord's citizenry; revisit the Green Card assignment and appointment process as needed. Implement the committee volunteer process drafted in 2021. Ensure that all volunteers are acknowledged for their willingness to serve.
9. Review/revise current committee structure; consider consolidation or elimination of existing committees and review APP10.
10. Support and participate in the public review of all new Public Private Partnership Agreements. Review the Town Manager's Public Private Partnership update to the SB.
11. Advise the Town Manager on opportunities to improve the organization and access to information on the Town website.
12. Work with the Town Manager and his office staff to improve the process of preparation for Select Board meetings.

*Financial Stability*

1. Gain Special Town Meeting and Town Election approval of debt exclusion funding for the new middle school with a target total project cost of \$100 million or less.
2. Brainstorm Town and School strategies for financing the forthcoming new Middle School Building Project to manage the future tax burden on Concord citizens. Identify an action plan to implement these financing strategies.
3. Fully implement the adopted recommendations of the Capital Planning Task Force this year to assist the Town Manager in developing an effective long-term method for understanding and prioritizing the capital and facilities needs of the Town and the Schools, to include timetables, cost estimates, environmental impact, debt forecasting

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and citizen tax burden.

4. Review strategies with the Town Manager for risk assessment and legal budget management and expenses.

*Affordable Housing*

1. Submit an ATM '22 warrant appropriation article for affordable housing if the related special legislation has not been approved.
2. Provide input to the housing production plan update to maximize the equity and diversity impacts of future affordable housing initiatives.
3. Seek alternatives that reduce the real estate tax burden of less affluent homeowners.
4. Develop an alternative or successor to Concord's inclusionary housing bylaw that can achieve the same objective going forward.
5. Support the Planning Board's work to identify best zoning practices to encourage the preservation of smaller homes.

*Diversity, Equity, Inclusion, and Belonging*

1. Review report from the DEI consultant to better understand the policy implications and implementation priorities.
2. Research and implement diversity, equity and inclusion best practices in town governance. Listen to diverse voices in the community and assess which potential DEI actions the Select Board should take.

*Maintaining Concord's Unique Character, Historic and Cultural Heritage, Agriculture and Natural Resources*

1. Launch development of a multi-year integrated planning process for land use, identifying currently owned and priority acquisitions for municipal and school facility needs, affordable housing, and conservation and acquisition of land to preserve Concord's rural and agricultural culture.
2. Monitor progress of the recreational use and long-term protection of White Pond, the Gerow land, Warner Pond and their ecosystems.
3. Coordinate the efforts of town bodies to support the Complete Streets goals of enhancing pedestrian safety and managing the increased use of bikes and other non-automobile motorized vehicles while protecting our natural conservation areas and trails.
4. Continue to seek resolution for public access to Estabrook Trail. (This matter currently being litigated.)
5. Launch town-wide planning for events celebrating the 250<sup>th</sup> anniversary of the American Revolution: Appoint Executive Committee to oversee the needed structure for the required advance town-wide planning. Executive Committee to produce preliminary plan within 90 days

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*Economic Vitality, Transportation and Communication*

1. Promote town events and commercial activity in the village business districts to ensure their continued success.
2. Consider the establishment of a new municipal Economic Vitality Division.
3. Provide input to the Thoreau Depot business district zoning and development processes.
4. Propose next steps for the Nuclear Metals/Starmet site based upon the recommendations in the committee report.
5. Identify and implement opportunities for enhancing transportation throughout town to support economic, social equity and recreational needs. Increase use of shuttle buses, school buses, on-demand transportation, the rail trail, the Assabet River Pedestrian Bridge, and village center wayfinding improvements.
6. Work with the Town Manager on initiatives to ensure the stability, continuity and continued growth of Concord's municipal broadband Internet service.
7. Monitor potential changes in status or ownership of institutional properties, such the Post Office and the Armory.
8. Work with the Economic Vitality Committee's efforts to re-examine the sewer improvement and parking availability.
9. Review the town's wireless communications policies and provide a definitive plan for addressing the priority safety and access concerns of town center cellphone coverage.

*Regional and State Interests*

1. Continue to work with our State legislative representatives on:
  - a. Special legislation refiled 2021 for ATM'19 Articles 25 and 26 related to affordable housing
  - b. Home rule petition filed 2021 for ATM'20 Article 15: Senior Means-Tested Property Tax Exemption
  - c. Work with our State legislative representatives on special legislation filed for ATM 21 Article 31 Fossil Fuel Infrastructure.
  - d. ATM 20 Article 50: one day liquor licenses
  - e. ATM'18 Article 18: 17-year-olds voting in Town elections
2. Annually invite state legislators to meet with the Select Board.
3. Reinvigorate participation in regional organizations of which Concord is a member such as Hanscom Area Town Selectmen (HATS), Hanscom Field Advisory Committee (HFAC), MPO, MAPC/MAGIC, MBTA, Massport, Cross-Town Connect, the MMA Fiscal Policy Committee, and the Battle Road 250th group.
4. Implement the regional dispatch center proposal dependent on grant funding, taking any additional revenues or resources and expenses such as IT readiness into account.
5. Appoint Concord representative to statewide 250th Commission and continue to work with regional partners in the ad-hoc Battle Road group.

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6. Receive an annual update on Minuteman Regional Technical High School with a focus on OPEB liabilities and Concord's expected long-term enrollment, projected per-pupil and total long-term costs.

*Specific to First Year Post COVID-19 Pandemic Transition for Municipal Functions*

1. Continue to prioritize public health and public safety in decision making to protect Concord citizens and Town employees as we emerge from the pandemic period.
2. Get regular updates and give input on ongoing efforts to re-open Town facilities and the effectiveness of the revised open office hours.
3. Keep town boards and committees apprised of hybrid meeting best practices while supporting a continued virtual (Zoom) meeting option.
4. Relay citizen concerns and interests in new town practices going forward as outcomes from the past 15-month pandemic challenge.
5. Review the Town Manager's annual plan for and use of ARPA funds.
6. Request a semi-annual progress report on filling the significant number of employee vacancies that were carried through the pandemic.

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**Committee Nomination**

Robert Abraham of 81 Plainfield Road to the Hugh Cargill Trust for a term to expire April 30, 2024. Sharon Jones of 8 Eaton Street, Bob Shatten of 116 Indian Spring Road, and Karen Gibson of 1641 Main Street to the Comprehensive Sustainability and Energy Committee for terms to expire on April 30, 2024. Ira Goldman of 130 Monsen Road to the Massport Community Advisory Committee for a term to expire on April 30, 2024. Happy Goethert of 606 Old Bedford Road and Melissa Maxwell of 449 Barrett's Mill Road to the Agriculture Committee for terms to expire April 30, 2024. Amy Kaiser of 289 Commonwealth Avenue to West Concord Advisory Committee for a term to expire April 30, 2024.

**Public Comments**

Pamela Dritt of 13 Concord Greene stated that she was concerned that the goals outlined financial commitments, but did not include sustainability or climate actions. Ms. Dritt expressed concern about the board's focus on climate change, stating that lowering expenses and taxes are important but are not the only goal.

Mark Gailus of 62 Prescott Road stated his appreciation for the board's goals discussion.

**Adjourn**

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

**Meeting Documents:** <https://concordma.gov/DocumentCenter/View/30826/July-19-SB-Packet>

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

**TOWN OF CONCORD  
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6:30 PM**

Pursuant to notice duly filed with the Town Clerk, the Concord Select Board convened in a meeting both via Zoom and in person at 141 Keyes Road on June 28, 2021 at 6:30pm.

Present were Terri Ackerman, Chair; Matthew Johnson, Clerk; Henry Dane, Susan Bates, and Linda Escobedo. Also present was Stephen Crane, Town Manager.

**Call to Order**

Select Board Chair Terri Ackerman called the meeting to order at 6:30pm.

Ms. Ackerman: Aye  
Ms. Bates: Aye  
Mr. Johnson: Aye.  
Ms. Escobedo: Aye  
Mr. Dane: Aye

**Consent Agenda**

- Minutes to approve: June 1, 2021; June 7, 2021
- Town Accountant Warrants: July 15, 2021; June 22, 2021
- One Day Special Liquor Licenses
  - Heritage Pool & Racquet Club 155 Old Bedford Rd 8/8/21 5:00pm-10:00pm All Alcoholic Beverages
  - Saltbox Kitchen 40 Westford Road 8/28/21 4:00pm-10:00pm Wines & Malt Beverages
  - Saltbox Kitchen 40 Westford Road 8/13/21 6:00pm-8:30pm Wines & Malt Beverages
  - Verrill Farm 11 Wheeler Road 7/28/21 6:00pm-8:00pm Wines & Malt Beverages
  - Verrill Farm 11 Wheeler Road 8/1/21 11:30am-2:30pm Wines & Malt Beverages

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve the minutes of June 1, 2021 and June 7, 2021 as amended and redistributed in the packet today.

Ms. Ackerman: Aye  
Ms. Bates: Aye  
Mr. Johnson: Aye.  
Ms. Escobedo: Aye  
Mr. Dane: Present

Mr. Dane voted present on the minutes, as he was not a member of the board.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve Town Accountant Warrants: July 15, 2021; June 22, 2021, One Day Special Liquor Licenses to the Heritage Pool & Racquet Club, Saltbox Kitchen, and

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Verrill Farm.

Ms. Ackerman: Aye  
Ms. Bates: Aye  
Mr. Johnson: Aye.  
Ms. Escobedo: Aye  
Mr. Dane: Aye

**Town Manager's Report**

Mr. Crane noted that due to the lengthy agenda, he would not be going through the entire printed report in the meeting materials.

The most notable issue that has come up since the printed report was the poor air quality in the region that is occurring due to the wildfires on the west coast being carried by the jet stream.

**Chair's Remarks**

Ms. Ackerman reported that at the most recent Chair's Breakfast, a number of openings on committees were highlighted. Residents can review opportunities and volunteer for board and committee service on the Town's website:

<https://concordma.gov/DocumentCenter/View/30885/July-26-SB-Packet>

Ms. Ackerman reported that Ag Day will take place on September 11.

**Diversity, Equity and Inclusion Committee Discussion**

Ms. Ackerman introduced this discussion by stating the goal is to highlight what Concord can do to improve diversity, equity, inclusion, and belonging in Concord. Ms. Ackerman extended her thanks to the many groups and individuals that have given the Select Board input through written correspondence ahead of this meeting.

Nancy Brown of 96 Forest Ridge Road, speaking on behalf of the League of Women Voters Concord-Carlisle, commented that as much as residents view Concord as a diverse and welcoming community, the town struggles with some of the same barriers as others do. Ms. Brown spoke in support of the League's position that the Town should put together a DEI Commission to outline steps that can be taken to remove socioeconomic barriers in the community.

Erin Fife of Concord-Carlisle Human Rights Council and COAR spoke in support of the Town establishing a DEI Commission, commenting that Concord is a different place for her than it is for her friends of color based on their lived experiences.

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Rose Cratsley of 79 Hillcrest Road commented on the micro assaults that she and others she knows have experienced in Concord. Ms. Cratsley noted the need in town for an organized and cohesive effort to address challenges to diversity, equity, inclusion, and belonging.

Pat Brewer from Frist Parish Church and COAR spoke in support of the Town establishing a DEI Commission. Ms. Brewer highlighted the opportunity for the Town to collaborate with private organizations such as the League and COAR on these efforts.

Matt Degreeff of 1400 Lowell Road spoke in support of the Town establishing a DEI Commission on behalf of West Concord Union Church. Mr. Degreeff commented on the inability for many people who work in Concord to afford to live in the community, and highlighted his children's encounters with racism in school.

Superintendent Laurie Hunter introduced Andrew Nyamekye, the new Director of Diversity, Equity and Inclusion for Concord Public Schools. Mr. Nyamekye was previously the METCO Director. Mr. Nyamekye spoke about his excitement to enter this role and for the Town's new efforts in support of diversity, equity, inclusion and belonging. Mr. Nyamekye will be collaborating with students, school staff at every level, and the broader community to ensure the schools culture to ensure that it is grounded in equity.

Cynthia Rainey of the School Committee spoke of the need for the schools to collaborate with the broader committee in order to be successful in achieving their DEI goals.

Ms. Bates thanked everyone for attending and spoke of the need to not view forming the committee as the final destination, but rather that an initial step in deeper soul searching for the community on this issue. Ms. Bates spoke in support of establishing a DEI Commission.

Ms. Escobedo highlighted the need for all of the existing efforts across town already doing work on DEI to come together to maximize the community's ability to address this issue and effect real change in the broader community and within the municipal organization.

Mr. Dane spoke in support of establishing a DEI Commission to take advantage of the energy that has been exhibited at this meeting tonight amongst residents.

Mr. Johnson highlighted an experience he had in town recently that captured the existing efforts among residents to improve diversity, equity, inclusion and belonging. Mr. Johnson stated that there is a role for the Select Board to play on this issue by first establishing a DEI Commission. Mr. Johnson spoke in support creating a more focused definition of diversity in the committee charge.

Mr. Crane highlighted the Town's efforts, both as an employer and through governing, to ensure that Concord is welcoming to people of all backgrounds. The Town's employees are undergoing diversity, equity, inclusion and belonging training.

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Ms. Ackerman concluded the board's comments by stating that this is a journey as many people said this evening, and the board's next step is to determine whether they create a DEI charge and to finalize this charge.

Vivian Tseng of 1128 Old Marlborough Road commented that political affiliation should not be on the charge. Ms. Tseng added that she hopes that additional curriculum relating to DEI at the local level is not one more thing students are burdened by without the appropriate resources allocated to make it successful. Ms. Tseng spoke in support of [H.584 An Act Relative to Anti-Racism, Equity and Justice in Education](#), which includes an introduction of ethnic studies in Massachusetts' public school curriculum.

Tanya Gailus of 62 Prescott Road commented on the efforts in the community and the thought put into the preparation of the DEI Commission charge. Ms. Gailus spoke of the need to not burden minority members of the community by expecting them to serve on this committee, stating that while people of color may be willing to speak to predominantly white groups about racial justice, it is up to white people to do the soul searching and work to address this issue.

The Select Board members all agreed that they would set up a DEI Commission. There was no formal vote to establish the commission, as board members will review the draft charge and come to the next meeting with proposed changes and additions.

**Discuss CMLP Broadband Outage**

Mr. Crane referenced the post-incident analysis prepared by Town staff regarding the broadband outage that occurred between June 25 and June 30. Mr. Crane spoke of the need to be detailed about what occurred, acknowledge what went poorly, how it was fixed, for the Town to hold itself and their vendors accountable, and the ongoing efforts to ensure an outage like this does not occur again. Residents can view the complete report in the [meeting materials](#).

Greg Marcinek, Director of Broadband, apologized to the public for the outage and thanked the CMLP team for their efforts during this time. Mr. Marcinek spoke of the staff changes and technical difficulties that contributed to the length of the outage. Mr. Marcinek stated that CMLP is conducting core network improvements, a full audit of the network, identifying any vulnerabilities that may exist, bringing aspects of the network up to date to meet the service needs of the community, and developing an incident recovery and communication plan.

Dave Wood, Director of CMLP, is preparing a list of investments the department is going to bring to the Light Board in support of the efforts that Mr. Marcinek highlighted.

Ms. Ackerman asked what the incident recovery plan is when it is a weekend, staff is on vacation, or there are absences otherwise. Mr. Marcinek stated that CMLP hires contractors to ensure that there is support in case of such absences.

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Ms. Escobedo thanked CMLP for their forthright and detailed report. Ms. Escobedo asked what communication has been formally done with residents, how this incident affects service backlog and new customer request, and asked if Concord Broadband lost customers. Mr. Marcinek stated that residents have initiated communication with him and his staff, but a letter has not gone out to customers regarding the incident. Mr. Marcinek said that Concord Broadband has lost customers, and will include the number of customers lost in the follow up report to the board. There is no impact on new installs.

Ms. Bates asked if the current migration of emails and information from Town servers was impacted by or a result of this issue. Mr. Marcinek stated that it was not.

Mr. Johnson stated that the post-incident analysis restores trust in CMLP. Mr. Johnson commented on the sheer number of systems that were obsolete, out of support, and were behind on patches, stating that it appears there was not a focus on keeping systems up to date. Jason Bulger, Chief Information Officer, commented that the biggest challenge in this regard had been resources.

Ms. Ackerman concluded the discussion by commenting that that is an ongoing effort, and CMLP will return before the Select Board for another update on their operational improvements in the coming months.

**Write Charge for Citizen Committee – Article 41 Fiber/Broadband Study Committee**

Ms. Ackerman introduced this item by stating that at the 2021 Town Meeting, voters approved Article 41 to develop a Fiber/Broadband Study Committee. There is a draft charge in the [meeting materials](#), which will be finalized at the board's August 9 meeting. The Select Board reviewed changes made before the meeting and proposed additional changes to be incorporated.

Gail Hire of 4 Nancy Road commented that committee members should be from diverse background and have representation from a variety of neighborhoods in order to focus on “the last mile” – getting broadband from the street and into homes.

Lois Suarez of 34 Everett Street spoke in support of Ms. Hire's comment that the biggest challenge to getting broadband for residents in multi-dwelling units is getting service extended to the building from the street.

Mark Howell of 668 Annursnac Hill Road stated that the charge needs to meet the requirements of the 2021 Town Meeting vote, but believes that the deadline for completion by February 2022 is too soon. Mr. Howell spoke in support of the committee's renewal beyond that date if the Select Board is able to do so.

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David Allen stated that there are two different tasks outlined by Article 41. The first is the completion of the fiber buildout in Concord. The second is identifying the barriers and opportunities in Concord Broadband. Mr. Allen commented that this will require two very different sets of skills and the committee membership should reflect this.

Pamela Dritt of 13 Concord Greene commented that Concord Broadband is part of CMLP's broader goal of developing a smart grid, and is in support of the meter connections being wired through the fiber optic system so Concord can maintain control over its own grid.

The Select Board will continue this discussion on August 9.

**Adopt Select Board Annual Goals for 2021-22**

The Select Board held a focused meeting on July 19 to develop goals for Fiscal Year 2022. These goals are included in the [meeting materials](#).

Select Board members offered one grammatical change on the goals.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve the Select Board FY22 Goals as drafted on 7/22/21 with the one change discussed and not making the change of economic resilience as proposed under Values & Guiding principles.

Ms. Ackerman: Aye

Ms. Bates: Aye

Mr. Johnson: Aye.

Ms. Escobedo: Aye

Mr. Dane: Aye

**Economic Vitality Division Reorganization – Vote Required**

The Town Manager is proposing that the Department of Planning and Land Management add an Economic Vitality Division in order to codify the operational needs and realities taking place since the beginning of the COVID-19 Pandemic. The budget for this reorganization was approved at the 2021 Town Meeting. The budget for Economic Vitality is currently housed in Recreation, but would change to DPLM if the Select Board approves this reorganization.

Mr. Johnson voiced support for an Economic Vitality Division, but raised a concern about how the Visitor Center seems to fit much more neatly under Recreation rather than DPLM, and thought it may make sense to keep the Visitor Center under Recreation. Ms. Rasmussen responded that DPLM works with cultural institutions across town, and the goal is to create synergy between different areas of economic vitality, including tourism, and highlighted successes of the Town's approach on economic vitality since the pandemic began.

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Ms. Ackerman asked if the current Tourism Director / Economic Vitality Coordinator's job description would be approved by the Personnel Board. Mr. Crane responded that it would be subject to a classification review and go to the Personnel Board for their approval.

Ms. Escobedo commented that there seems to be merit in codifying the Economic Vitality Division as proposed, and there can always be adjustments to this new division as dictated by departmental needs and personnel.

Ms. Ackerman offered that she did not feel comfortable approving this reorganization at the meeting given the lack of clarity noted by some board members on the budgetary details. Therefore, the Select Board will postpone a decision on this item until August 9. The Town Manager and Chief Financial Officer will follow up with Ms. Ackerman ahead of the next Select Board meeting.

**Committee Nominations:**

Bradley Hubbard-Nelson of 221 Nashawtuc Road to the Comprehensive Sustainability and Energy Committee for a term to expire April 30, 2024. Sara Pacelle of 1712 Monument Street to the Library Committee for a term to expire on April 30, 2024. Mary-Wren Vander-Wilden of 158 Simon Willard Road to the Library Committee to serve as an Associate Member for a term to expire on April 30, 2022.

**Committee Appointments:**

Upon a motion duly made and seconded, it was UNANIMOUSLY **VOTED:** to appoint Robert Abraham of 81 Plainfield Road to the Hugh Cargill Trust for a term to expire April 30, 2024. Sharon Jones of 8 Eaton Street, Bob Shatten of 116 Indian Spring Road, and Karen Gibson of 1641 Main Street to the Comprehensive Sustainability and Energy Committee for terms to expire on April 30, 2024. Ira Goldman of 130 Monsen Road to the Massport Community Advisory Committee for a term to expire on April 30, 2024. Happy Goethert of 606 Old Bedford Road and Melissa Maxwell of 449 Barrett's Mill Road to the Agriculture Committee for terms to expire April 30, 2024. Amy Kaiser of 289 Commonwealth Avenue to West Concord Advisory Committee for a term to expire April 30, 2024.

**Town Manager Appointment with Select Board Approval:**

Upon a motion duly made and seconded, it was UNANIMOUSLY **VOTED:** to appoint Paul Kirshen of 38 Longfellow Road, Brian Crouse of 49 Indian

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Pipe Lane, Courtney Eaton of 141 Monsen Road, and Jake Swenson 140 Nut Meadow Crossing to the Climate Action Advisory Board for terms to expire April 30, 2024.

**Committee Liaison Reports**

Committee liaison reports will be postponed until the August 9 Select Board meeting.

**Miscellaneous Correspondence**

Miscellaneous correspondence was included in the meeting materials.

**Public Comments**

Mark Gailus of 62 Prescott Road commended the careful discussion of the Economic Vitality Reorganization, commenting that there are parts of the reorganization that do not fit as proposed. Mr. Gailus recommended that the proposed department should be included under the Town Manager or Deputy Town Manager and not the Department of Land Management.

**Adjourn**

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

Ms. Ackerman: Aye  
Ms. Bates: Aye  
Mr. Johnson: Aye.  
Ms. Escobedo: Aye  
Mr. Dane: Aye

**Meeting Materials:** <https://concordma.gov/DocumentCenter/View/30885/July-26-SB-Packet>

**Minuteman Media Network Coverage:**  
<https://www.youtube.com/watch?v=FSni6uxNvIA&list=PL1TTzrWEKOOKHKXNLQprEz0f0ofHYKj8-&index=3&t=74s>



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

TEL: 978-318-3000  
FAX: 978-318-3002

Stephen Crane, Town Manager

## MEMORANDUM

To: Chair Ackerman and Members of the Board

From: Stephen Crane, Town Manager

Date: September 7, 2021

Re: Town Manager Report

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### **Library Hours**

The Concord Free Public Library will be expanding hours through a phased reopening beginning on September 7. The expanded hours are below and may be expanded to include Sunday hours subject to staff resources.

#### Main Library Hours

Monday - 10:00AM - 8:00PM  
Tuesday - 9:00AM - 8:00PM  
Wednesday - 9:00AM - 8:00PM  
Thursday - 9:00AM - 8:00PM  
Friday - 9:00AM - 6:00PM  
Saturday (starting 9/11) - 9:00AM - 5:00PM  
Sunday - Closed

#### Fowler Branch Hours

Monday - 10:00AM - 6:00PM  
Tuesday - 10:00AM - 6:00PM  
Wednesday - 10:00AM - 6:00PM  
Thursday - 10:00AM - 6:00PM  
Friday - 10:00AM - 5:00PM  
Saturday (starting 9/11) - 10:00AM - 5:00PM  
Sunday - Closed

#### Special Collections Hours

Monday - 10:00AM - 6:00PM  
Tuesday - 9:00AM - 5:00PM  
Wednesday - 9:00AM - 5:00PM  
Thursday - 9:00AM - 5:00PM  
Friday - 9:00AM - 5:00PM  
Saturday & Sunday - Closed

## CPD

Officers Derek Rodriguez and Cara Paladino have both recently successfully completed the National School Resource Officer training provided by the Municipal Criminal Justice Training Committee held in Randolph. Both Officers will both serve as School Resource Officers for the upcoming 2021-22 school year. The Officers will work as a team with each having primary responsibilities. Officer Rodriguez will be assigned to the Concord Middle School and Officer Paladino at the Concord-Carlisle Regional High School.



The mission of the School Resource Officer Program is based on the fundamental premise that when the schools, police, prosecutors, and other social services agencies work collaboratively and proactively, the safety, mental health, and well-being of children and youth are best served. By working together to educate the school community, coordinate efforts, and share information, the Concord Public & Concord-Carlisle Regional High School and the Police Department through the program strive to: (1) prevent violence involving the students; (2) prevent the use, abuse, and distribution of alcohol and other controlled substances involving students; (3) provide a safe, secure, violence-free, and nurturing environment.

## CFD

Over the past week CFD responded to 85 calls for service, including a mutual aid response to Sudbury. Due to a failing roof and impending weather, Sudbury FD evacuated a nursing home. 81 patients were moved to other facilities by a large response of ambulance “strike teams”. The Concord response included Chief Judge, Engine 4, and Ambulance 3. This was an orderly evacuation in a controlled situation, so the Concord personnel were able to take part in an event that provided a real-time training opportunity with valuable experience gained. The Department also assisted with a challenging house fire in Maynard.



On Thursday, August 26, companies responded to a gas line struck at Walden Street and Hubbard Street. On arrival, Captain Curran observed a large vapor cloud of gas; the humid weather was hindering the dissipation that we normally see. Captain Curran along with the PD quickly shut down the area and evacuated a couple of nearby businesses. A charged line was deployed and a hose stream was operated to break up the vapor cloud and control its direction.

## **DTM**

### Human Services

The Back-to-School Backpack Program finished last week thanks to Concord residents, Town of Concord employees, volunteers with the Concord-Carlisle Community Chest and the St. Vincent de Paul Society, along with a local business owner, who all very generously donated brand new backpacks and school supplies. Distribution began the last week of August, parents brought their children over to 55 Church Street where they were able to choose a backpack and school supplies for the new school year.

The COA instituted an indoor mask mandate for their programs, staff and visitors which began last week. While some people expressed frustration with COVID, the seniors have continued to actively participate in COA programming while being 'masked up.' Now that the Town Clerk has moved back into the Town House, additional programming such as cards, pool and use of the library will begin once again next week.

The Beede Center completed their annual shutdown last week; the work that was done by the facilities team was more than impressive and saved more than \$150,000 in HVAC Unit and Roof Repairs. Ann Boudrot who has served for many years as the Waterfront Director for White Pond (including for many years before the Town took ownership) has accepted the Town's offer to serve as the Beede Center's new Aquatics Program Manager. Ann will begin this new role September 13<sup>th</sup>; this position had been vacant for a number of months and we are thankful for Ann's interest and expertise. Anna and I are in the final rounds of interviewing the top candidates for the Assistant Recreation Director position; we hope to wrap that up next week.

Recreation is again running their popular School year childcare program which began this week. Those programs include before school, afterschool, early release care, and the Carousel preschool. Those programs are all running at near capacity. It has been a challenge hiring for those teachers and group leader positions. Concord pays well for those positions relative to other communities; however, we suspect people's reluctance to get back to 'in person' work after COVID and the ride of the variant are playing a major role in the lack of recruitment options. Nevertheless, the kids in the program are happy and the other full time members of the recreation staff are working those programs while we continue to actively promote our staff opportunities.

### Facilities, Parks & Playgrounds

The Gerow project is coming along nicely. As of this week, the pathways have been laid out, the parking area marked off and most of the downed trees and limbs have been cleared. As you can see in the pictures, the park is now looking open and sunny. When standing in the middle of what will be the restroom and pavilion area, you can plainly see the Bruce Freeman Rail Trail. Bid specifications for the White Pond Project were posted to the State's Website last Thursday and will be in the Concord Journal tomorrow. The Emerson Field Project is entering into its final phase with the playground surfacing tentatively scheduled for the week of September 20. The firm of Weston & Sampson has provided an estimate to the Town to assess and provide some design options relative to the Emerson Pool facility. The pool, built in the early 1980's, is in a total state of disrepair. The concrete walls are crumbling into the deep end and it no longer holds water appropriately.

## PEG

The Town has received the attached letter from Comcast to initiate the formal franchise renewal process. The latter has been received by the Public Access Advisory Committee (PAAC) as well. The process is expected to take two years so further updates will be provided as this effort continues.

## **CPW**

In accordance with the MassDEP's PFAS monitoring schedule, samples were collected and analyzed at all six groundwater supplies during the month of July. Results from this round of sampling closely mirrored results from initial monitoring conducted this past spring. All groundwater supplies continue to have levels of PFAS6 below MassDEP's Maximum Contaminant Level (MCL) of 20 parts per trillion (ppt), indicating no immediate or emergency treatment is required for these compounds at this time. These results are posted, along with links to additional resources and prior results on the existing webpage dedicated to this topic ([www.concordma.gov/PFAS](http://www.concordma.gov/PFAS)).

In 2016, under the National Pollutant Discharge Elimination System (NPDES) General Permit, towns in Massachusetts were issued a new Small Municipal Separate Storm Sewer Systems (MS4) permit for discharging stormwater. The 2016 MS4 permit became effective July 1, 2018. Towns are currently in Year 4 of the permit. Each year, the Town is required to submit an annual report detailing recent work completed while also updating the Stormwater Management Plan. CPW is presently soliciting comments on the most current draft of the Stormwater Management Plan – which can viewed at the following website:

<https://concordma.gov/DocumentCenter/View/21210/Concord-Stormwater-Management-Plan-Report->

## **CMLP**

In the customer survey of over 1,000 residents and businesses, 47% of residential customers and 42% of commercial customers said that they would be willing to spend more to ensure that 100% of their power supply came from non-carbon emitting (NCE) sources. Staff estimated the cost to administrate a new rate, which could vary quite substantially based upon the total number of enrollees, at less than \$10,000. Despite the potential number of interested customers, a new rate option may not be adopted primarily because CMLP's % of NCE power could approach 80% in 2021 and it is forecasted to reach 100% by 2023 *at current market prices*.

## Broadband Help Desk

Staff is in the process of creating an RFP for Broadband Help Desk services. These services are currently being completed by a third party and the contract is set to expire at years end. Given the experience with this vendor during high call volume events, it is a good time to see what other vendors offer.

## Current Broadband Customer Count: 1507 Active Accounts

Residential cost per month and number of subscribers:

Entry	49.95	418
Basic	64.95	303
Hi-Speed	74.95	398
Ultra	89.95	264

Business		
Entry	74.95	39
Basic	89.95	39
Hi-Speed	149.95	19
Ultra	199.95	16
Business Enterprise	Quoted	5

Backlog Update:

Based on recent follow up with requests for service, there are about 330 customers awaiting connection. Installations have nearly reached pre-pandemic levels of 25-30 installs monthly. A target of 45 installations per month could be achieved with a fourth technician being hired and trained. A third-party contractor has also been retained to assist in outside fieldwork and fiber to the home installations in a specific area for efficiency.

**DPLM**

Last week the Building Department and the Fire Department completed the Annual Inspections for all Concord Public Schools.

The Planning Board granted Site Plan Approval for the Concord Children’s Center for a new facility at 250 Old Bedford Rd. The Board held a remand public hearing for the Definitive Subdivision Plan application of Symes Development & Permitting LLC, for a sixteen-lot subdivision at 11B, 146B and 1442 Main Street, and 110 Highland Street pursuant to the Land Court’s remand order of June 23, 2021 in *Symes Development & Permitting LLC v. Concord Planning Board et al.*, 21 MISC 000021. The Board voted to approve an amended Definitive Subdivision Plan Decision consistent with the Land Court’s order. The Board also released Lot 1 (24 McCallar Lane) from the Restrictive Covenant for the Hosmer Meadows Definitive Subdivision. The Board continues to discuss amendments to the Subdivision Rules & Regulations and potential Zoning Bylaw amendments for the 2022 Annual Town Meeting. The Board will be discussing the Thoreau Depot Business District redevelopment project and potential Zoning Bylaw amendments at the September 14<sup>th</sup> meeting.

Community Preservation Committee Applications are due Friday, September 17 by 4:00PM

Delia Kaye and Colleen Puzas met with EA Engineering, the consultant leading the permitting for the limited dredging project at Warner Pond. Field work (wetland delineation and wildlife habitat evaluations) will occur over the next several weeks. A public forum to provide a project overview and solicit feedback will be scheduled for late October/early November.



Comcast Cable  
(676 Island Pond Road  
Manchester, NH 03109  
603-695-1400  
www.comcastcorporation.com

8/25/2021

VIA UPS and email [tackerman@concordma.gov](mailto:tackerman@concordma.gov)

Town of Concord  
Cable Advisory Committee  
22 Monument Square  
Concord, MA 01742

Subject: COMMENCEMENT OF FRANCHISE RENEWAL PROCESS

Dear Chair and Members of the Select Board:

Comcast appreciates the opportunity to provide our products and services to the citizens of the Town of Concord. We provide the high quality cable television and other services the Town of Concord and its residents demand, and we hope to continue providing those services to our Town of Concord subscribers for many years to come. Therefore, we are taking this step to ensure the renewal of our franchise with you.

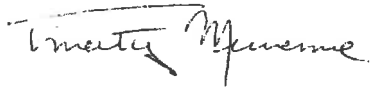
The Cable Communications Policy Act of 1984 ("the 1984 Cable Act") encourages franchisors and cable operators to reach renewal agreements at any time through an informal process of discussion. However, Section 626 of the 1984 Cable Act also provides for commencement of a formal renewal procedure. To preserve our statutory rights to this formal procedure, this letter is our official notice to you invoking that provision so the parties can use the formal renewal procedure should informal discussions result in an impasse.

This letter is not intended to introduce a new formality into our discussions, nor is that the intention of the 1984 Cable Act. In fact, we prefer to reach a mutually satisfactory agreement through informal negotiations, thus making many of the 1984 Cable Act's formal procedures unnecessary.

***Gregory Franks will be in contact with you soon to arrange a meeting to discuss informally negotiating a renewal agreement. Please also feel free to contact Greg at 508-647-1418 at any time if you have any questions.*** Comcast looks forward to meeting with the Town and continuing the relationship that, we believe, has benefited both the community and the residents of the Town of Concord.

- Sincerely,





Timothy Murnane  
Vice President, Government and Regulatory Affairs

TM/cam  
Attachment

cc: Gregory Franks– Comcast Government & Regulatory Affairs  
Cable Advisory Board  
Town Manager



TOWN OF CONCORD  
TEMPORARY POLICY DIRECTIVE AND GUIDELINES FOR PUBLIC MEETINGS AND  
PUBLIC HEARINGS CONDUCTED VIA REMOTE PARTICIPATION AND IN PERSON

Original: April 1, 2020  
Updated: May 7, 2020  
Updated: September 8, 2021

The Concord Select Board, in consultation with public health, public safety, and guidance from Governor Baker, voted to rescind the Declaration of Emergency effective June 15th, 2021. The Governor signed into law on June 16th provisions which allow for the continued ability of public boards and committees to meet virtually until April 1, 2022. This temporary directive is an update to the revised temporary directive dated May 7, 2020.

Each town committee/board/commission chair may, in his/her discretion, determine the modality of the committee/board/commission public meeting, subject to Open Meeting Law requirements and Town bylaws and regulations. Chairs of non-executive committees/boards/commissions may only schedule their next meeting up to 30 days in advance. The currently available modalities are:

1. Zoom only (no in-person meeting). For committee chairs interested in this option, this is permissible until April 1, 2022. You would continue your current practice of scheduling the meeting over zoom.
2. In Person only (no Zoom). Contact the town department admin directly who is responsible for scheduling that space. The current rooms available in town facilities for public committee meetings, including the contact information for that room scheduler, are:
  - Town House, 22 Monument Square (Chris Carmody, [ccarmody@concordma.gov](mailto:ccarmody@concordma.gov), or Jeremy Romanul, [jromanul@concordma.gov](mailto:jromanul@concordma.gov), 978-318-3000)
    - Select Board Room
    - Public Hearing Room
  - 55 Church Street, basement (Laurie Giovino, 978-318-3059, [lgiovino@concordma.gov](mailto:lgiovino@concordma.gov))
  - 141 Keyes Road, Planning Department, 1st Floor (Planning Dept., 978-318-3290)
  - Concord Municipal Light Plant (Karin Farrow, 978-318-3103, [kfarrow@concordma.gov](mailto:kfarrow@concordma.gov))
    - Public meeting room
    - Operations meeting room
  - Harvey Wheeler (Claudia Curran, 978-318-3020, [ccuran@concordma.gov](mailto:ccuran@concordma.gov))
    - Auditorium
    - Clock Tower Room
  - Library Main Branch (Gay Weiss, 978-318-3347 [gweiss@concordma.gov](mailto:gweiss@concordma.gov))
    - Trustees Room
    - Basement Conference Room
  - Fowler Branch, Conf. Room (Dorrie Karlin, 978-318-3350 [dkarlin@concordma.gov](mailto:dkarlin@concordma.gov))

3. Hybrid – over Zoom and in person. There are currently only two locations that are capable of hosting hybrid meetings: (i) 141 Keyes Road, Planning Dept. first floor conference room, and (ii) CMLP Public Meeting Room. Because hybrid meetings require additional technical support, Chairs must contact the Town Manager’s Office to schedule a hybrid meeting.

The Town is actively working on enhancing the capability of each room to host hybrid meetings. The Town will update the list of hybrid-capable public meeting rooms as soon as each room is properly updated. Minuteman Media Network will simulcast Executive committee meetings when requested. All other meetings will be recorded and posted on the web for viewing or rebroadcast on Channel 9.

Each meeting attendee is expected to adhere to a standard of respect and courtesy towards the committee members and Town staff. The committee/board/commission chair reserves the right to recognize members of the public during the meeting and, if necessary, mute or remove an attendee, or disable the attendee’s audio/visual functionality if an attendee fails to meet the basic meeting standards of courtesy and respect. These standards include but are not limited to waiting to be recognized by the chair, not interrupting another speaker, and not yelling or harassing the chair, committee members, or town staff.

At the start of the meeting, all present will announce their presence by name. When speaking, each member will state their name before speaking. During the course of the Zoom-only meeting, all votes will be conducted by roll call. Participants in the Zoom meeting should use the video option whenever possible. Additionally, they should be in a well-lit room so their face is clearly visible, sitting close enough to the microphone to be heard, and use their real full name in the “name” box. To check if you are close enough to the microphone, please use the “test microphone” feature through Zoom before you enter the meeting.

Other Open Meeting Law requirements including those regarding the posting of meeting notices, keeping of minutes, identifying and maintaining documents used at the meeting, and going into executive session continue to apply.

If an executive session is convened for a valid purpose under the Open Meeting Law, it will be held by web/video conferencing using one meeting number and password and then enter into executive session using a meeting number and password made known only to the members of the public body, and to Town staff and other individuals invited to the executive session by the public body consistent with the purpose of the executive session. At the conclusion of the executive session, the public body will return to open session to the web/video conferencing bridge for the public meeting to conduct further business or to adjourn.

#### COVID-19 GUIDANCE

In person and hybrid meeting participants and attendees must review the Town of Concord COVID-19 guidance including the wearing of masks, social distancing, and capacity restrictions in Town facilities prior to posting a meeting. The guidance is subject to sudden change as public health conditions change. The Town reserves the right to suspend in person and hybrid meetings in response to public health conditions.



The Town House will re-open to the public on Tuesday, September 7, 2021. Our new “in-person” hours, during which staff are available for unscheduled walk-in service and phone calls, are as follows:

<i>Department</i>	<i>Contact Info</i>	<i>In Person Hours</i>
Town Manager’s Office	978-318-3000	9AM to 3PM, Monday through Thursday (closed Fridays)
Town Clerk’s Office	978-318-3080	9AM to 3PM, Monday through Thursday 9AM to 12PM, Fridays
Finance Administration	978-318-3090	9AM to 3PM, Monday through Thursday
Treasurer-Collector	978-318-3050	9AM to 12PM, Fridays
Accounting	978-318-3060	
Assessor*	978-318-3070	Assessor’s Office (24 Court Lane) will open on 9/7/21*
Human Resources	978-318-3025 hr@concordma.gov	9AM to 3PM, Monday through Thursday (closed Fridays)

*Our operating hours extend beyond the in-person hours, so staff are regularly working and available by appointment even when our buildings are closed to the public. We also offer many ways to assist you without the need for in-person transactions. Please contact us by phone or email to seek service outside of the above-listed hours and visit our website for additional resources:*

[www.concordma.gov](http://www.concordma.gov)



**TOWN OF CONCORD**  
**Office of the Town Manager**  
**22 Monument Square – Concord, MA 01742**

*Kate Hodges, Deputy Town Manager*  
[khodges@concordma.gov](mailto:khodges@concordma.gov)  
M: 978-318-3055 D: 978-318-3013

## MEMO

TO: Stephen Crane, Town Manager  
FROM: Kate Hodges, Deputy Town Manager  
DATE: August 24, 2021  
RE: Town House Renovation Project Synopsis

The Town House First Floor Renovation Project began in December of 2020. Over the last ten months the project has faced several impediments; however, as we near its completion, I am happy to provide a synopsis of the venture for your information. As you are aware, the impedance behind these renovations was two-fold: the first was to ensure a secure and functional area for the finance team to handle cash and other transactions containing Personal Identifying Information (PII) while the second was to distinguish public areas from private workspaces which allowed staff the ability to focus on detailed or larger-scale projects without interruption or distraction.

As renovations come to a close, a small ‘punch list’ remains containing simple electrical connectivity repairs and touch ups for minor cosmetic flaws. It is anticipated that these corrections will be made by mid-September and allow us to close-out the project by 09/30/21.

### ***Project Background.***

In 2016, Town Meeting approved an appropriation of \$750,000 for the “Renovation of the Town House”. The idea at that time was to commission a feasibility study in order to determine if the existing building’s elevator could be extended to the third-floor attic space. If feasible, the third floor would then be ‘built-out’ in order to create additional office space for the Town Manager and the Human Resources operations – both of which were expanding in terms of headcount and storage needs. Unfortunately, during the process, it was determined that in order to extend the elevator, an additional ‘bump out’ would be needed on the roof, visible from the street. This was met with much resistance from the Historical Commission since the building is of great historical significance. Additionally, the ability to extend the elevator would also require the installation of ‘sureing’ beams in existing basement to support the additional load. It was also determined that we would need to widen the elevator cab which, when complete, would actually work to reduce office square footage in the Town Manager and Finance Administration office suites. The total cost for this work, should the Town have wished to proceed, was estimated to cost between \$1.5M and \$2M. In light of these barriers the initiative was abandoned.

Attention then turned to the first floor of the Town House which, as you may recall, was a large open space with several ‘pods’ of cubicles and desks arranged housing the finance department’s support staff. The exterior walls were flanked by several private offices for division managers including: treasury, town clerk, payroll, accounting, retirement<sup>1</sup> and the finance director. The largest issue with this design centered around security. Many of these operations handle cash transactions and/or other pieces of information which contain a wide variety of PII. Allowing

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<sup>1</sup> The retirement offices moved to 55 Church Street in 2019 after the building was renovated.



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staff working with these types of sensitive materials in large open spaces that are also open to members of the public is not only distracting but could be potentially dangerous. After several discussions with the Chief Financial Officer and her team, the decision to renovate the first-floor space to allow for better security and consistency of workflow was devised.

Since the early 1970's visitor information and other literature from those entering downtown Concord has stated that public restrooms are located in the Town House on the second floor. While not heavily used year-round, the Town House does see a fair share of visitors who need to utilize the restroom from time-to-time. Unfortunately, the location on the second floor allows people the ability to linger or 'explore' areas of the Town House without staff knowing why or when they are there. This poses a security issue that we believed could be easily rectified by installing two additional bathrooms immediately adjacent to the front door of the building.

The Town amended its contract with TBA, Inc.<sup>2</sup> in 2019 to include a design schematic and construction drawings for the complete renovation of the first floor, lobby area and new restrooms. The plan was finalized in June of 2019 and bid shortly thereafter.

Bid #2177 entitled "Town House 1<sup>st</sup> Floor Renovations" was released July 8, 2020, consistent with M.G.L. ch.149. The bid deadline was set as August 6, 2020, with filed sub-bids due on or before July 23, 2020. I served as the Bid and Contract Administrator; Ryan Orr, Facilities Director served as the Town's Owner Project Manager (OPM). We bid the project with a suggested construction budget totaling \$597,300 which included an allowance of \$176,000 for the required sub-bids: HVAC, Electrical, Plumbing and Fire Protection.

We received six (6) bids for the project. The low bid came from Classic Construction & Development, Inc. located in Littleton, MA. Their bid price totaled \$686,000. This was \$151,755 less than the second lowest bid. The highest bid price point received was \$921,459. After checking references and the required DCAMM Certifications for Classic Construction, the company was determined to be the lowest and most responsible bidder and awarded the contract. The contract documents were fully executed on September 10, 2020; the start date for the project was set as November 6, 2020<sup>3</sup>.

### ***Unknown Existing Conditions, Overrides & Delays.***

Renovating a building that is hundreds of years old is unusually challenging. The Town House project was no exception. At the time of both feasibility and design, there were no 'as-built' markups or former renovation plan schematics which the Architects and consultants could reference. An extensive search of the Town archives yielded photos of previous iterations of the Town House's interior configurations, but no schematics, structural studies or floor renderings could be located. As such, the architects employed the use of a drone camera to take photos of

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<sup>2</sup> TBA was hired in 2018 to conduct a town-wide facilities assessment and master plan for Concord. Given that the group had a series of 'as-builts', 3-Dimensional floor plans and other information relative to the building, the idea for them to use their existing data to create a new floor plan for construction seemed the most cost-effective choice.

<sup>3</sup> The initial contract start-date was advertised as September 1, 2020. This date was modified by the Town, and agreed to by the contract, to allow the Town Clerk to remain in the Town House to oversee and manage the Presidential Election.



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the first floor within the drop ceiling; these pictures were used to create a construction plan for the first-floor offices.

During demolition, several structural support columns, like those seen in the photos below, as well as multiple layers of subflooring and asbestos-covered tiles were discovered. The necessary remediation processes and various re-design efforts which these situations caused delayed the project several weeks and lead to multiple change orders totaling \$28,612.



### **Alternates & Expansion of Scope.**

As the project progressed, it became increasingly clear that in order to accomplish a streamlined and complete look, the first-floor lobby entrance needed to be addressed. While the lobby area was found to be both structurally sound and level, the original design called for much of the old carpet to remain. After seeing the variety of issues relative to the height differential between the lobby area and the first-floor office space, it was apparent that ADA accessibility standards would not be achievable if the existing carpet was to remain. The grade change from the new public lobby area to the front door vestibule was simply too steep. Considering this, the



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*marmoleum*<sup>TM</sup> flooring<sup>4</sup> which was initially planned for the public lobby area was continued throughout the entire first floor public space. This added an additional \$31,485 to the budget which we funded through the General Fund Appropriation for Town Wide Facility Maintenance.

The final set of larger-scale issues which were unknown at the time of design surrounded several buried electrical panels and older HVAC registers as well as several non-compliant ‘live’ wires buried in the existing drywall. Unseen during both the walk-through and design phases, these lines and registers needed to be relocated or, in many cases, removed to ensure code compliance. Many of these changes were encapsulated into two additional change orders which totaled \$43,461.

The final change order related to a design error by the Architect which added an additional \$603. However, a corresponding deduction was made by the firm within their fee as it was recognized that the error was theirs; this change was budget neutral.



<sup>4</sup> *Marmoleum* is made with natural ingredients including many raw and recycled materials such as wood flour, jute fiber, and linseed oil. It contains no plasticizers, phthalates, volatile organic compounds or toxic chemicals. Sheets are installed with solvent free adhesives have no adverse health effects during production and over its useful life. The natural bactericidal properties of *marmoleum* prevent micro-organisms including Salmonella Typhimurium and Staphylococcus Aureus from multiplying themselves; the product produces a continual oxidation of the linseed oil it is made from in order to enable its antibacterial capabilities. It is truly 100% sustainable.



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### **Budget & Financial Synopsis.**

The project had four change orders totaling \$105,563. The breakdown of these included:

<i>CO #</i>	<i>Description</i>	<i>Amount</i>
1	Revised Layouts & Structural Wall Revisions	\$ 19,205
	Subfloor Removal & Subsequent Leveling	\$ 9,407
2	Alarm Panel Relocation	\$ 1,652
	Electrical & HVAC	\$ 4,489
	Subfloor, Doors & Hardware	\$ 7,094
3	Additional Lobby Flooring	\$ 31,485
	Hard Ceiling Patch, Lobby Paint, Cove Light, Etc.	\$ 25,090
	Addition of Roller Shades	\$ 5,136
4	Electrical	\$ 1,402
	Faucet Changes ( <i>Design Error, credited against Architect Bill</i> )	\$ 603
<b>CHANGE ORDER TOTAL:</b>		<b>\$ 105,563</b>

### ***Conclusion.***

As the project nears completion and the facilities team begins to move certain operations back into the new space, we need to take a critical look at workstations, operational needs, and the effectiveness of the space. Moving from a large open-space floor plan which once covered the entire first floor to a more truncated, secure, and delineated space is not without its barriers. Specifically, much of the furniture which once occupied the space is far too large for the new office quarters. Additionally, the creation of the public lobby space reduced the amount of employee workspace by approximately 1,000 square feet. While these changes are in the best interest of the operation, the next several months will likely be spent trying to determine how best to utilize the existing furnishings and, if that cannot be achieved, identifying current and future funding sources for new materials.

The project, once complete, will total approximately \$790,000. This amount is equal approximately \$170 per square foot. Overall, very happy with the project and despite the many 'bumps in the road' feel that the overall goals for the project – security of operations and a clear delineation of private office space, have been achieved. I look forward to members of the public utilizing the space and proving their thoughts and feedback on the improvements.

Please let me know if I can provide any additional information. Thank you.

Town of Concord

Draft for Discussion 9/6/21

Personnel Committee Study Task Force

**A. Purpose**

Appoint and charge a citizen committee to study the roles and responsibilities of the Personnel Board and the other stakeholders (citizens, Town staff, employees) in the Human Resources space. Review Personnel Bylaw and related documents and make recommendations to the Select Board for appropriate changes thereto. Make recommendations to Select Board regarding responsibilities of the Personnel Board.

**B. Background**

In 1955 the Town Charter was approved which directs the Select Board to appoint a number of committees including the Personnel Board. In 1985 a document was presented to the Select Board by the Town Manager to establish a Personnel Department. The Personnel Bylaw has been updated many times over the years, most recently in 2017, and serves as the guiding document for the Personnel Board and the Town staff.

**C. Membership**

The Task Force shall be comprised of five members appointed by the Select Board, each for a term that will expire on XXXX XX, 2022. The citizens' petition expressed the establishment of an independent task force. The qualities for membership include having an impartial or unbiased view about the future of Concord's Personnel Board. The members may include:

One former member of the Personnel Board

One former Select Board member

Three members from the public at large, preferably with experience in Human Resources or Town Government

**D. Duties and Responsibilities**

To make recommendations to the Select Board on updates to the Personnel Bylaw and related Town Personnel Policies governing the non-unionized employees of the Town of Concord.

Ensure that we have a system for personnel administration that is:

Efficient

Consistent with a Strong Town Manager form of government

Able to maintain equity, accountability and transparency for citizens and employees

Able to respond quickly to changing laws/regulations, operation needs and labor markets as well as a shifting workforce

Effective for recruitment and retention of employees

**E. Other Considerations**

Authority and role of:

Town Manager

Personnel Board

Select Board

Town Meeting

Human Resources Director/Department

Senior Managers

Keep in mind the interests of stakeholders, including citizens and employees

The Study Task Force will elect a chair and clerk and comply with all State and local laws, including the Open Meeting Law, the Public Records Law and the Conflict of Interest Law.

Resources include Human Resources Director, Personnel Board Chair, Town Manager and other staff as needed.

Appendices:

1985 document establishing Personnel Department

Personnel Bylaw

Town of Concord

Draft for Discussion 9/6/21  
Personnel Study Task Force  
(rev. hjd 8/31/21)

**A. Purpose**

To Appoint and charge an independent citizen task force to study the Personnel Bylaw, the Charge of the Personnel Board, and related documents and make recommendations for appropriate changes thereto.

The task force shall provide recommendations to the Select Board in a timely manner in order to prepare Articles for the 2022 Annual Town Meeting.

**B. Background**

The Town Charter approved in 1955 directed the Select Board to appoint a number of committees including the Personnel Board. In 1985 a document was presented to the Select Board by the Town Manager to establish a Personnel Department. The Personnel Bylaw has been updated several times over the years, most recently in 2017, and serves as the guiding document for the Personnel Board and the Town staff. However the current role of the Personnel Board, as defined by the 1985 Charge and the current Personnel Bylaw, is outdated and does not reflect the needs of the Town's 21<sup>st</sup> century workforce, or the challenges faced by the Town in recruiting, developing and retaining high-quality employees.

**C. Membership**

The independent citizens' task force shall be comprised of five members appointed by the Select Board, each for a term that will expire at the final adjournment of the 2022 Annual Town Meeting. The purpose of the task force will be to provide an impartial study and proposal with regard to the future role and function of the Personnel Board. The members may include:

One former member of the Personnel Board

One former Select Board member

One former Town Employee

Two members from the public at large, preferably with experience in Human Resources or Town Government

#### **D. Duties, Powers and Responsibilities**

1. To meet regularly and to elect a chair and clerk;
2. To focus solely on the Charge of the Personnel Board, the Personnel Bylaw, and related Town Personnel Policies governing the Town's personnel policies for nonunionized employees;
3. Gather information, conduct research and make recommendations on the roles and authority of the Personnel Board in supporting the following objectives;
  - a. Recruiting, developing and retaining high-quality employees;
  - b. Ensuring a diverse, equitable and inclusive work force and environment;
  - c. Providing a fair and equitable Classification and Compensation Plan for non-union employees;
  - d. Determining a fair and just employee grievance process for non-union employees;
  - e. Providing accountability and governance for the Town's personnel operations;
  - f. Supporting the Select Board's ability to evaluate the Town Manager's administration of the personnel system;
  - g. Providing transparency to Town citizens and opportunity for them to provide input into personnel operations and
  - h. To make recommendations to the Select Board on updates to the Personnel Bylaw and related Town Personnel Policies governing the Town's non-unionized employees.
4. Ensure that the Town's system for personnel administration is:
  - a. Efficient;
  - b. Consistent with a Strong Town Manager form of government;
  - c. Able to maintain equity, accountability and transparency for citizens and employees;
  - d. Able to respond quickly to changing laws and regulations, operational needs and labor markets as well as a shifting workforce and
  - e. Effective for recruitment and retention of employees.

## **E. Other Considerations**

The task force will consider and make recommendations with regard to the authority and role of:

- a. The Town Manager
- b. The Personnel Board
- c. The Select Board
- d. The Town Meeting
- e. The Human Resources Director/Department
- f. Senior Managers, and
- g. Will keep in mind the interests of stakeholders, including citizens and employees.

The task force will elect a chair and clerk and comply with all State and local laws, including the Open Meeting Law, the Public Records Law and the Conflict of Interest Law.

Resources will include Human Resources Director, Personnel Board Chair, Town Manager and other staff as needed.

Appendices:

1985 document establishing Personnel Department  
Personnel Bylaw

Town of Concord

Draft for Discussion 9/6/21  
Personnel ~~Committee~~ Study Task Force

(rev. ~~hjd~~ 8/31/21)

A. Purpose

To Appoint and charge ~~a an independent citizen committee task force~~ to study the ~~roles and responsibilities~~ Personnel Bylaw, the Charge of the Personnel Board and the other stakeholders (citizens, Town staff, employees) in the Human Resources space. Review ~~Personnel Bylaw~~ and related documents and make recommendations ~~to the Select Board~~ for appropriate changes thereto. ~~Make~~

~~The task force shall provide recommendations to the Select Board in a timely manner in order to Select Board regarding responsibilities of the Personnel Board prepare Articles for the 2022 Annual Town Meeting.~~

B. Background

~~In 1955 the~~The Town Charter was approved which ~~directs~~in 1955 directed the Select Board to appoint a number of committees including the Personnel Board. In 1985 a document was presented to the Select Board by the Town Manager to establish a Personnel Department. The Personnel Bylaw has been updated ~~many~~several times over the years, most recently in 2017, and serves as the guiding document for the Personnel Board and the Town staff. ~~However the current role of the Personnel Board, as defined by the 1985 Charge and the current Personnel Bylaw, is outdated and does not reflect the needs of the Town's 21<sup>st</sup> century workforce, or the challenges faced by the Town in recruiting, developing and retaining high-quality employees.~~

C. Membership

~~The Task Force~~The independent citizens' task force shall be comprised of five members appointed by the Select Board, each for a term that will expire ~~on XXXX XX~~at the final adjournment of the 2022- Annual Town Meeting. The ~~citizens' petition expressed the establishment of an independent purpose of the~~ task force. The ~~qualities for membership include having will be to provide~~ an impartial or unbiased view about the study and proposal with regard to the ~~future of Concord's role and function of the~~ Personnel Board. The members may include:

One former member of the Personnel Board

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One former Select Board member

~~Three~~One former Town Employee

~~Two~~ members from the public at large, preferably with experience in Human Resources or Town Government

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**D. Duties, Powers, and Responsibilities**

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1. To meet regularly and to elect a chair and clerk;
2. To focus solely on the Charge of the Personnel Board, the Personnel Bylaw, and related Town Personnel Policies governing the Town's personnel policies for nonunionized employees;
3. Gather information, conduct research and make recommendations on the roles and authority of the Personnel Board in supporting the following objectives:
  - a. Recruiting, developing and retaining high-quality employees;
  - b. Ensuring a diverse, equitable and inclusive work force and environment;
  - c. Providing a fair and equitable Classification and Compensation Plan for non-union employees;
  - d. Determining a fair and just employee grievance process for non-union employees;
  - e. Providing accountability and governance for the Town's personnel operations;
  - f. Supporting the Select Board's ability to evaluate the Town Manager's administration of the personnel system;
  - g. Providing transparency to Town citizens and opportunity for them to provide input into personnel operations and
  - h. To make recommendations to the Select Board on updates to the Personnel Bylaw and related Town Personnel Policies governing the Town's non-unionized employees of the Town of Concord.
4. Ensure that we have at the Town's system for personnel administration that is:
  - a. Efficient;
  - b. Consistent with a Strong Town Manager form of government;

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- c. Able to maintain equity, accountability and transparency for citizens and employees;
- d. Able to respond quickly to changing laws ~~and~~ regulations, ~~operation~~operational needs and labor markets as well as a shifting workforce ~~and~~
- e. Effective for recruitment and retention of employees.

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E. **Other Considerations**

Authority and role of:

The task force will consider and make recommendations with regard to the authority and role of:

- a. ~~The~~ Town Manager
- b. ~~The~~ Personnel Board
- c. ~~The~~ Select Board
- d. ~~The~~ Town Meeting
- e. ~~The~~ Human Resources Director/Department
- f. Senior Managers, ~~and~~

g. ~~Keep~~Will keep in mind the interests of stakeholders, including citizens and employees.

The ~~Study Task Force~~ task force will elect a chair and clerk and comply with all State and local laws, including the Open Meeting Law, the Public Records Law and the Conflict of Interest Law.

Resources will include Human Resources Director, Personnel Board Chair, Town Manager and other staff as needed.

Appendices:  
1985 document establishing Personnel Department  
Personnel Bylaw

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Approved  
Board of Selectmen  
6/24/85

## PERSONNEL DEPARTMENT

### 1. GENERAL

The Personnel Department is established effective July 1, 1985 and consists of the Personnel Director and Personnel Board. The department is responsible for the administration of the Personnel Bylaw and the operation of the Town's personnel system.

### 2. APPOINTMENT AND SUPERVISION OF DEPARTMENT

The Personnel Board, consisting of five members, is appointed by the Board of Selectmen in accordance with the Personnel Bylaw.

The Personnel Director and other department employees are appointed by the Town Manager under Section 2 of the Town Charter and appropriate State statutes. Under Sections 9 and 11 of the Town Charter, the Personnel Director reports to the Town Manager and is subject to his general supervision and direction.

### 3. PERSONNEL BOARD

#### A. Membership

Five members appointed by the Board of Selectmen with staggered three-year terms. The Board elects a chairman and clerk.

#### B. Duties and Responsibilities

The Personnel Board shall have responsibility for the administration of the Personnel Bylaw (Wage and Salary Classification Plan) of the Town, including the following:

- a) Establish job classifications, minimum and maximum wage brackets, and salary schedules for all regular Town positions for approval by Town Meeting, with the exception of:
  1. jobs under the direction and control of the School Committee, provided that school employees may be included in the Plan as requested by the School Committee; and
  2. positions filled by popular election, provided that the Board shall make recommendations regarding salaries for elective positions prior to the annual Town Meeting as requested by the Selectmen.

- b) Recommend non-wage provisions governing the positions under the Plan for approval by the Town Meeting, including such items as vacations, hours, days, and weeks of work, insurance benefits, leaves of absence, sick leave, military leave, jury duty, worker's compensation, overtime, etc.
- c) Periodically review job descriptions for all positions included in the Plan to ensure they are properly classified.
- d) Review at reasonable intervals job classification rates of pay under the Wage and Salary Classification Plan, taking into account such factors as pay rates for like jobs in Massachusetts towns comparable to Concord, pay rates for like jobs in private industry in the Concord area, and current cost-of-living indexes; and make recommendations as appropriate to the Town Meeting.
- e) Approve new job titles and re-classifications of existing jobs, and establish minimum and maximum wage or salary brackets therefor, to be effective until the time of the next vote of the Town Meeting thereon.
- f) Receive from the Personnel Director a monthly report of all appointments to positions under the Wage and Salary Classification Plan, and establish policies governing the appointment or reassignment of new employees at a starting rate higher than the minimum rate under the Plan.
- g) Establish policies and procedures from time to time as necessary for administration of the Plan.
- h) Receive the appeal of any employee aggrieved by the operation of any provision of the Wage and Salary Classification Plan or aggrieved by any action of the appointing authority, investigate and consider the disputed questions involved, hold private or public hearings as appropriate, render a decision, and take action relative to the dispute as may be authorized under the Plan.
- i) Resolve all questions and disputes relative to interpretation of the provisions of the Plan as may be referred to the Board by employees and officials of the Town.
- j) Provide policy advice to the Town Manager on collective bargaining matters on request.

4. PERSONNEL DIRECTOR

A. Appointment

By Town Manager

B. Duties And Responsibilities

1. Administer the personnel system of the Town, reviewing personnel changes and weekly payroll to assure compliance with Personnel Bylaw, union contracts, and other personnel rules and regulations and exercise approval over personnel actions as specified by Personnel Board and Town Manager. Assist Department Heads in performance of departmental personnel functions. Prepare monthly personnel action report.
2. Assist in the recruitment and selection of new employees.
3. Provide assistance to the Personnel Board in the form of research, analysis, and recommendations. Attend Personnel Board Meetings.
4. Act as Affirmative Action Officer for Town, suggesting initiatives in keeping with that position; completing periodic reports for the Town Manager, Personnel Board, and State Officials on progress under the Town's program.
5. Prepare and maintain job descriptions. Perform salary surveys as necessary.
6. Develop special management reports and coordinate projects for the Town Manager. Develop policies and procedures for Town Manager and Personnel Board approval.
7. Administer Sick Leave management and performance evaluation plans and prepare annual reports.
8. Administer Town's employer responsibilities under the Mass. "Right-to-Know" Law including dissemination of information, record keeping, and employee training. Make recommendations in improved safety procedures.
9. Develop training and orientation programs and administer the Town's Educational Assistance Program for employees.
10. Administer employee health, life, and dental insurance plans, and coordinate retirement system enrollment with Town Accountant. Administer Worker's Compensation program.
11. Maintain department records. Prepare and manage department budget. Draft annual report for Personnel Board approval.

Town of Concord

# PERSONNEL BYLAW



2017

# Personnel Bylaw

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## DEFINITIONS

As used in this bylaw, the following words and phrases shall have the meanings shown below unless a different construction is clearly required by the context or by the laws of the Commonwealth.

"Board" - the Personnel Board.

"Classification" - a group of positions whose duties and responsibilities are sufficiently similar that the same descriptive title, qualifications and compensation can be applied with equity to all positions in the classification.

"Classification Plan" - a listing of all approved position classification titles and a summary job description for each classification.

"Compensation Plan" - a listing of the minimum, maximum and intermediate wage or salary rates for each title in the Classification Plan.

"Continuous Employment" - (either full-time or part-time) year-round employment which is uninterrupted except for authorized leaves of absence.

"Department Head" - the appointed official assigned administrative jurisdiction over a functional department of the Town.

"Employee" - an employee of the Town.

"Employment Status" - a category which defines the intended terms of an employment position, as to its length and number of hours worked.

"Full-time Employee" - an employee retained in a full time position.

"Full-time Position" - a position which requires the services of an employee for 37.5 or 40 hours per week whichever is defined as full-time for that classification.

"Limited Status Position" - a position which requires the services of an employee for either uninterrupted or occasional periods for an annual average of less than 20 hours per week and does not require reappointment for each period of work. *(Rev. 4/09)*

"Limited Status Employee" - an employee retained in a limited status position.

"Maximum rate" - the highest rate in a salary range.

"Minimum rate" - the lowest rate in a salary range.

"Part-time Employee" - an employee retained in a part-time position.

"Part-time Position" - any position which requires the services of an incumbent for less than the 37.5 or 40 hours per week, whichever is defined as full-time for that classification.

"Personal Rate" - a salary above the maximum rate of the salary range, applicable only to a designated employee.

"Position" - a defined set of duties and responsibilities to which one employee is appointed to perform.

"Promotion" - the movement of an employee from one position into another position which is in a classification with a higher maximum salary.

"Rate" - a sum of money designated as compensation for personal services on an hourly, weekly, annual or other basis.

"Reclassification" - the movement of a position from one classification to another classification.

"Regular Employee" - an employee retained in a regular position, either full-time or part-time.

"Regular Position" - a year-round, full-time or part-time position of 20 hours or more per week which requires the services of an employee in continuous employment for an indefinite term.  
(Rev. 4/09)

"Salary Range or Grade" - an established range of salary or wage rates included in the Compensation Plan.

"Salary Structure Movement" - Any increase or decrease in a salary range which is approved by Town Meeting.

"Seasonal Position" - a position which requires the services of an employee for a designated portion of each year.

"Step" - a specific rate in a salary range or grade.

"Temporary Employee" - an employee retained in a temporary or seasonal position or in a regular position on a temporary basis.

"Temporary Position" - a full-time or part-time position which requires the services of an employee for a temporary period of time. (Rev. 4/09)

"Town" - the Town of Concord.

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## **Section 1. PURPOSE AND APPLICATION OF BYLAW**

This Bylaw shall be known and cited as "The Town of Concord Personnel Bylaw." Its purpose is to establish an equitable and efficient system of personnel administration for Town employees.

All Town departments and positions shall be subject to the provisions of this bylaw except elected officers, employees with personal contracts, employees covered by a collective bargaining agreement, and employees of the school department. All questions of doubt or dispute relative to interpretation of this bylaw shall be settled by the Personnel Board. *(Rev. 4/97)*

If any provision or application of this Bylaw is determined to be invalid under state or federal law, such decision shall not be construed to affect the validity of any other application or provision of this Bylaw.

---

## **Section 2. PERSONNEL BOARD**

This Personnel Bylaw shall be administered by a Personnel Board consisting of five (5) members. Members of the Personnel Board shall be appointed by the Board of Selectmen for three (3) year terms.

No member of the Personnel Board may be an employee of the Town nor hold Town office, whether appointed or elected, but any such member may serve on behalf of the Town on any committee negotiating with Town employees.

Members of the Personnel Board shall serve without compensation.

The Personnel Board shall meet regularly as necessary to consider such business as may be presented by Town officials, Town employees, and others.

At any meeting of the Personnel Board, action by a majority of those Board members present shall be binding. At least three (3) members of the Board shall be present in order to constitute a quorum.

---

## **Section 3. PERSONNEL POLICIES AND PROCEDURES**

The Personnel Board and Town Manager shall adopt and maintain personnel policies and procedures as needed to implement and interpret the provisions of the Personnel Bylaw. *(Rev. 4/16)*

Employees shall be provided an opportunity to review and comment on any proposed personnel policy that could have a significant impact on the conditions of their employment.

---

## Section 4. EMPLOYMENT STATUS

Each employment position in the Town of Concord shall be assigned one of the following "employment status" designations by the Town Manager. An employee shall be assigned the same employment status as the position he/she holds and the employee's eligibility for leave and insurance benefits shall be based on the employment status of that position as defined in this bylaw and personnel policy.

**Regular, Full-Time:** Continuous, year-round employment for 37.5 or 40 hours per week, whichever is defined as full-time for that classification.

**Regular, Part-time:** Continuous, year-round employment for less than full-time, but at least 20 hours per week. *(Rev. 4/09)*

**Limited Status:** Employment for uninterrupted or occasional periods for an annual average of less than 20 hours per week that does not require reappointment for each period of work. *(Rev. 4/09)*

**Temporary (Full-time or Part-time):** Employment in a seasonal position or for a temporary period of time, either on a full-time or part-time basis. *(Rev. 4/09)*

Each temporary or seasonal position held by an employee is considered separately in determining an employee's status. If an employee holds a series of consecutive temporary positions, he/she shall continue to be designated as a temporary employee.

---

## Section 5. CLASSIFICATION PLAN

### 5.1 Definition and Authority

A classification plan shall be maintained for all regular-status Town positions. The Classification Plan shall consist of a listing of all approved position classification titles and a summary job description for each classification, both of which are hereby incorporated by reference into this bylaw. The Classification Plan shall provide a uniform system for grouping positions based on the nature and complexity of the duties assigned and the minimum qualifications required to perform those duties.

All changes to the list of job titles included in the Classification Plan must be approved by Town Meeting. No person shall be appointed or promoted to any regular-status position under a title not included in the Classification Plan.

### 5.2 Job Descriptions

The Town Manager or his/her designee(s) shall prepare and maintain summary job descriptions for all position classifications in the Classification Plan. Such descriptions shall consist of a statement describing the essential nature and level of the work performed by employees in that classification; illustrative examples of typical tasks and duties assigned; and the required or desirable qualifications for the classification. *(Rev. 4/16)*

These classification descriptions shall be interpreted as descriptive only and not restrictive. They shall be construed solely as a means of identifying and grouping positions and not as prescribing what the duties or responsibilities of any job shall be.

### **5.3 Allocation of Positions to Classifications**

Whenever a new position is established, the Personnel Board shall review the duties and qualifications of the position and allocate it to the appropriate classification.

Whenever an existing position is assigned new duties so that a new level of work exists and in effect a new position is created, the Personnel Board shall review the duties and qualifications of the position and determine if it should be reallocated (i.e., "reclassified") to another classification. (See Section 10.4 of this Bylaw for information on how such a reclassification would impact an employee's pay.)

In the event the Personnel Board determines that a new or changed position requires the establishment of a position classification not included in the Classification Plan, it may temporarily authorize the addition of a new title to the Classification Plan, subject to ratification at the next Town Meeting.

### **5.4 Periodic Review of the Classification Plan**

It shall be a responsibility of the Town Manager to ensure that position classifications and job descriptions are reviewed at reasonable intervals, as he/she deems necessary and as resources are available. *(Rev. 4/16)*

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## **Section 6. COMPENSATION PLAN**

### **6.1 Definition and Authority**

A compensation plan shall be maintained for all regular-status Town positions. The Compensation Plan shall consist of minimum, maximum and intermediate wage or salary rates for each title in the Classification Plan, and is hereby incorporated by reference into this bylaw.

Each department head shall be responsible for having the wages and salaries for regular-status Town employees under his/her jurisdiction fixed in accordance with, and only in accordance with, the rates set forth in the Compensation Plan.

### **6.2 Amendments to the Compensation Plan**

All amendments to the Compensation Plan must be approved by Town Meeting. The Personnel Board shall be responsible for preparing and presenting recommended amendments to the Compensation Plan at Town Meeting.

In the event the Personnel Board determines that the establishment of a new position or the reclassification of an existing position requires a change in the compensation plan

(e.g., adding or changing a salary range or reallocating an existing classification to a different salary range), it may temporarily authorize the necessary change subject to ratification at the next Town Meeting.

Any increase in wages or salaries under this section shall be effective only if funds are available for the purpose.

### **6.3 Periodic Review of the Compensation Plan**

It shall be a responsibility of the Personnel Board to review rates of pay at least every three (3) years. Whenever the Personnel Board reviews the Compensation Plan, it shall take into account and give such weight as it may deem appropriate to the following:

- a. Rates of pay for like positions in other Massachusetts towns considered by the Personnel Board to be comparable to Concord.
- b. Rates of pay for like jobs (if any) in commercial and business establishments in the area of Concord and vicinity.
- c. The current level of the Consumer Price Index for Urban Wage Earners and Clerical Workers, Boston, Massachusetts.

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## **Section 7. SALARY SCHEDULES FOR TEMPORARY AND LIMITED STATUS POSITIONS**

The Personnel Board shall be responsible for establishing and maintaining salary schedules for temporary and limited status positions. No person shall be employed in a temporary or limited status position under a title or wage rate not included in the Personnel Board's approved salary schedules for such positions or in the Town's regular Classification and Compensation Plans.

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## **Section 8. IN-TRAINING STATUS**

Regular employees shall be considered to be "in-training" during their first six months of service in a position. Employees may be released from their position at any time during the in-training period without right to appeal such action through the Town's established grievance procedure. Prior to the end of the six month in-training period, each employee's job performance will be reviewed by the department head to determine if s/he should continue in the position. When extenuating circumstances exist, the Town Manager may extend the in-training period for up to an additional six (6) months.

Both new and promoted regular employees shall complete an in-training period.

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## **Section 9. HOURS OF WORK**

### **9.1 Work Week**

The full-time work week for each employee shall be designated by the Town Manager as 37.5 or 40 hours in accordance with the duties and responsibilities of the position held. *(Rev. 4/97)*

### **9.2 Overtime**

1. Employees determined to be non-exempt under the Fair Labor Standards Act shall receive one and a half times their hourly rate (including longevity and other special pays as required by federal law) for time worked over 40.0 hours in the work week. In addition, Personnel Policies and Procedures may provide for pay at one and a half times the hourly rate for time worked outside of an employee's regular work schedule. In lieu of overtime pay and with the mutual consent of the employee and his/her department head, these employees may receive compensatory time off at the rate of one and one half times the number of overtime hours worked. *(Rev. 4/98; 4/07)*
2. Employees whose positions are exempt under the Fair Labor Standards Act shall not receive overtime pay. These employees may receive appropriate compensatory time off for prolonged work hours with the prior approval of the Town Manager. *(Rev. 5/01)*

### **9.3 Non-contiguous Work**

Employees determined to be non-exempt under the Fair Labor Standards Act who are assigned or recalled to work for periods that are non-contiguous with their regular workday will receive a minimum of four (4) hours pay for such work when the assignment or recall was made less than eight (8) hours prior to the scheduled start time. When eight (8) hours or more notice is given the employee for such work, a minimum of two (2) hours pay will be given. *(Rev. 4/07)*

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## **Section 10. PAY POLICIES**

### **10.1 Appointment Rates**

New employees and employees who receive a promotion will be appointed at a base rate of pay within the approved range for the position's classification; the Town Manager shall determine the starting rate based on his/her consideration of the individual's qualifications, available funds, market influences, internal equity and any other relevant factors. *(Rev. 4/16)*

## **10.2 Increases Within the Salary Ranges**

The Town Manager and Personnel Board shall adopt a plan for providing employees with salary increases within the ranges specified in the Compensation Plan. Increases within the salary ranges may only be granted when an employee's performance is found to be satisfactory. *(Rev. 4/98)*

## **10.3. Incentives and Reward**

The Town Manager and Personnel Board may adopt programs which provide monetary and/or non-monetary incentives and rewards to recognize unusual accomplishments and circumstances such as temporary additional duties, useful suggestions, high productivity, outstanding achievements, etc. Such incentives and rewards may provide an employee with pay which exceeds the maximum of the salary range, however, such pay may not become a permanent part of the employee's compensation. Any program adopted under this section shall be effective only if funds are available for the purpose. *(Rev. 4/97)*

## **10.4 Reclassifications**

### **1. Positions Reclassified to a Higher Salary Grade**

An employee whose position is reclassified to a higher salary grade shall receive a rate of pay in the new salary range. The Town Manager may increase the employee's base rate of pay up to a percentage equivalent to the percent increment between the minimum pay of the former range and the minimum pay of the new range. When the position is in a step pay plan the employee will normally be paid a step in the new range which is closest to this percent. With prior approval of the Personnel Board the Town Manager may approve a salary outside of this guideline when circumstances relating to the position warrant a higher pay. In no case shall the employee receive a salary greater than the top of the salary range of the higher classification. *(Rev. 4/95)*

### **2. Positions Reclassified to a Lower Salary Grade**

If an employee's position is reclassified to a lower salary grade, the employee's current salary shall not change. If the employee's current salary is below the new range's maximum, the employee will receive salary increases in accordance with policy until the maximum is reached. If the employee's current salary is above the new range's maximum, the employee's current salary will become a personal rate and the employee shall receive no further increases in pay (including salary structure movement) until such time as the personal rate is exceeded by the new salary range.

## **10.5 Acting Pay**

An employee may be assigned to assume temporarily some or all of the duties of another position from which an incumbent is absent. Additional compensation shall be given for such assignments when all of the following conditions have been met:

- a. The employee is assigned to perform a majority of the significant duties of a budgeted, higher paid position from which an incumbent is absent.
- b. The duties of the higher paid position are assigned to and performed by the designated employee for fifteen (15) or more consecutive work days.
- c. The assignment is approved by the Town Manager.

Employees who perform the duties of a higher paid position under the above provisions, shall receive "acting" pay beginning on or retroactive to the first day of the assignment.

Acting pay shall be a rate in the salary range of the position being filled. The Town Manager may appoint an employee at an acting rate of pay up to an amount which provides the employee with a percent increase equivalent to the percent increment between the minimum pay of the employee's current range and the minimum pay of the new range. Employees who are assigned acting duties of a position in a step pay plan may be paid the step in the new range which is closest to this percent. With prior approval of the Personnel Board and when circumstances relating to the position warrant, an employee may be appointed at a rate of pay beyond this guideline. In no case shall the employee receive a salary greater than the top of the salary range of the higher classification. *(Rev. 4/95)*

Acting pay shall apply to any overtime worked in the higher classification (when eligible), but shall not apply to any paid leave taken or accrued during the acting assignment, unless authorized by the Town Manager.

**10.6 Longevity Pay**

Regular, full-time employees shall be entitled to receive "longevity" pay in recognition of years of continuous service, as follows:

<u># of Years Continuous Service</u>	<u>Longevity Pay</u>
5	\$125 per year
10	\$250 per year
15	\$400 per year
20	\$600 per year

Regular, part-time employees will receive credit for years of continuous service on the same basis as full-time employees, but will receive longevity pay prorated to their average weekly work schedule.

Town Personnel Policies and Procedures may provide further definition of the calculation of continuous service and the schedule for payment of longevity pay.

**10.7 Other Special Pays**

The Town Manager may adopt schedules to provide employees with special pays that are consistent with the municipal employment market. Examples of such compensation that may be provided beyond the maximum base rate of pay outlined in the Compensation Plan include, but are not limited to: stand-by pay, uniform pay, education assistance, and educational incentives. *(Rev. 5/14)*

## **10.8 Workers' Compensation**

In the event a employee is incapacitated as the result of an injury or illness arising out of and in connection with his/her employment with the Town and for which workers compensation is payable, s/he may use first any accumulated sick and then any other accrued leave time to supplement the difference between workers compensation payments and the regular straight time rate of pay.

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## **Section 11. SICK LEAVE**

### **11.1 Accrual**

Upon hire, each regular, full-time employee shall be credited with three (3) days of sick leave accrual. Additional sick leave will not be accrued until the employee completes three (3) months of service, at which time he/she shall begin to accrue sick leave at the rate of one day for each month of active employment. Each part-time regular employee shall accumulate sick leave on a prorated basis in proportion to the percentage of full-time hours worked. There is no maximum on the amount of sick leave that may be accumulated. *(Rev. 5/01)*

### **11.2 Use**

Sick leave is generally granted to employees for protection against loss of pay due to their own personal illness or injury, and to attend medical appointments with health care professionals. However, the Town Manager and Personnel Board may adopt policies that permit an employee to use accrued sick leave to care for an immediate family member during an illness or injury, and for any purpose for which leave may be taken under the Family and Medical Leave Act or Small Necessities Leave Act. Such policies shall define "immediate family member" for the purposes of family-related sick leave use. *(Rev. 4/16)*

Department heads may, at their discretion, require medical certification of any illness or injury for which sick leave is used.

Town Personnel Policies and Procedures may provide further definition of the accrual and use of sick leave.

### **11.3 Sick Leave Payoff**

Unused sick leave shall not be paid off when an employee terminates employment with the Town except upon retirement, as provided below.

When an employee who was hired prior to July 1, 1992 retires from Town employment, he/she shall be paid for 50% of the accumulated sick leave balance he/she holds at the date of retirement, up to a maximum of 62 days of pay (i.e., 50% of 124 days of accumulated sick leave). Employees hired on or after July 1, 1992 shall not be eligible for sick leave payoff upon retirement.

In the event of an employee's death while on the payroll of the Town (prior to retirement), his/her designated beneficiary shall be paid 50% of his/her accumulated sick leave at the date of his/her death, up to a maximum of 62 days of pay (i.e., 50% of 124 days of accumulated sick leave).

"Retirement" as used in this section shall mean when an individual begins to collect a retirement pension as an active Town retiree. An employee who voluntarily takes deferred retirement is not eligible for payment of accumulated sick leave.

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## **Section 12. HOLIDAYS**

### **12.1 Holiday Leave**

Except as noted below, one day of paid leave shall be granted to all regular status employees for each of the following days:

<u>Holidays</u>	<u>Observed On:</u>
New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Presidents' Day	Third Monday in February
Patriot's Day	Monday Designated by the Commonwealth
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day After Thanksgiving	Day After Thanksgiving
Christmas Day	December 25

The Personnel Board and Town Manager may adopt policies that reduce the amount of holidays granted and/or provide alternate holidays and dates of observance for employees who work in the Beede Center or other operations that remain open when Town offices are generally closed. *(New 4/08)*

Regular, part-time employees shall receive prorated holiday leave based on the ratio of their average weekly hours to the full-time workweek for their positions.

To qualify for holiday pay, an employee must be on paid status on his/her last regularly scheduled work day immediately preceding the holiday and on his/her first regularly scheduled work day immediately following the holiday.

Town Personnel Policies and Procedures may provide further definition of the leave and/or pay granted for holidays defined above.

## **12.2 Holidays Worked**

Except as noted below, when an employee who is paid on an hourly basis is required to work on New Year's Day, Christmas Day or Thanksgiving Day, s/he shall receive two (2) times his/her hourly rate of pay in addition to any holiday pay for which s/he may be eligible. When such an employee is required to work on any other observed holiday, s/he shall receive one and one-half (1 1/2) times his/her hourly rate of pay in addition to any holiday pay for which s/he may be eligible. *(Rev. 5/01)*

The Personnel Board and Town Manager may adopt a different pay policy for holidays worked by employees in the Beede Center or other operations that maintain a different schedule than Town offices. *(New 4/08)*

The Fire Chief shall be paid for holidays worked in accordance with M.G.L. Chapter 48, Section 57E, as amended from time to time. *(New 5/01)*

The Police Chief shall be paid for holidays worked in accordance with M.G.L. Chapter 147, Section 17F, as amended from time to time. *(New 5/01)*

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## **Section 13. VACATION LEAVE**

### **13.1 Accrual**

The Personnel Board and Town Manager shall adopt policies regarding how regular-status employees accrue vacation leave. *(Rev. 5/01)*

Regular, part-time employees shall accrue vacation on a pro-ration of the above schedule, based on the ratio of their average weekly hours to the full-time workweek for their positions.

Town Personnel Policies and Procedures may provide further definition of the accrual and use of vacation leave.

### **13.2 Maximum Vacation Accrual**

Accumulation of vacation hours is limited to a maximum of the employee's annual accrual level, plus five (5) days. In unusual circumstances approved by the Department Head and Town Manager, an employee may accumulate more than this maximum.

### **13.3 Use and Payoff of Vacation**

No vacation time may be taken until an employee has completed six (6) months of service, unless authorized in advance by the Town Manager. *(Rev. 5/01)*

When an employee leaves the employ of the Town, s/he shall be paid for any unused vacation earned up to the last day worked.

#### **Section 14. BEREAVEMENT LEAVE**

Up to three (3) days of paid leave may be granted by a department head to any regular employee when such leave is needed because of the death of a member of the employee's immediate family. Definition of "immediate family member" for the purposes of bereavement leave shall be determined by Town Personnel Policies and Procedures. The Town Manager may grant additional paid leave to an employee when warranted by special circumstances relating to a death. *(Rev. 4/04)*

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#### **Section 15. PERSONAL LEAVE**

Each regular employee shall accrue up to three (3) days of paid personal leave during each fiscal year; personal leave for regular part-time employees shall be pro-rated. Personal leave may be used by the employee for any personal reason; however, the scheduling of such leave must be approved by the appropriate department head. Any unused personal leave shall be forfeited upon separation of employment. Town Personnel Policies and Procedures may provide further definition of the accrual and use of personal leave. *(Rev. 4/2017)*

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#### **Section 16. MILITARY LEAVE**

Employees who serve as members of a reserve component of the US armed forces shall receive their regular pay, in addition to any military pay, for up to seventeen (17) days of their annual tour of duty (per M.G.L. Chapter 33, Section 59 as adopted by Town Meeting, March, 1948). Annual tour of duty does not include orientation courses and weekend or other inactive duty drills.

A reservist employee shall receive unpaid leave to attend orientation courses and weekend or other inactive duty drills unless the employee elects to voluntarily take vacation, holiday, or personal leave time.

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#### **Section 17. JURY DUTY**

Regular employees who serve on jury duty on any regularly scheduled work day shall receive the difference between their normal pay and pay received for jury duty (excluding travel allowance). An employee will report to work on any scheduled work day that his/her attendance is not required for jury duty.

For the purposes of this policy, "regular" employment shall be defined by M.G.L. Chapter 234A, Section 48.

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**Section 18. UNPAID LEAVES OF ABSENCE**

**18.1 Family and Medical Leave**

The Town Manager and Personnel Board shall adopt and implement personnel policies and procedures which comply with the Family and Medical Leave Act of 1993. *(Rev. 4/94)*

**18.2 Other Leaves of Absence**

Unpaid leaves of absence not covered by the Family and Medical Leave Act of 1993 may be granted at the discretion of the Town Manager. *(Rev. 4/94)*

**18.3 Accruals During Leaves**

Employees may be required to use other accrued leave balances prior to being granted any unpaid leave of absence, as determined by Town Personnel Policies and Procedures. No paid leave time or seniority shall accrue to an employee beyond the thirtieth (30th) calendar day of an unpaid leave of absence.

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**Section 19. INTERRUPTION OF EMPLOYMENT**

Any regular employee who leaves Town service while in good standing and is subsequently rehired by the Town will, upon successful completion of one year's service, be given credit for his/her previous years of service for the purposes of vacation accrual and longevity pay.

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**Section 20. LEAVE FOR  
TEMPORARY AND LIMITED-STATUS EMPLOYEES**

Temporary and limited-status employees may be eligible for paid sick, holiday, vacation and/or personal leave when approved by the Town Manager and Personnel Board. *(New 5/01)*

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## Diversity, Equity, and Inclusion Commission Charge

### A. Purpose

The purpose of the Diversity, Equity, and Inclusion Commission (DEI) is to increase cooperation, understanding, and dialog among residents of diverse cultural, religious, socio-economic, racial and ethnic backgrounds, and to promote inclusion throughout the town. The Commission shall also critically consider intersections among these groups to facilitate learning, understanding, and unity. The goal is for everyone who lives in Concord, works in Concord, attends school in Concord, participates in a Concord faith community, or visits Concord for whatever reason to be welcomed, valued, respected, and heard.

*Diversity* refers to population groups that have been historically underrepresented in socially, politically, or economically powerful institutions and organizations. These groups include, but are not restricted to populations of color, such as African Americans and Blacks, Latinx, Hispanics, Native Americans and Alaska Natives, Asian Americans, and Pacific Islanders. They may also include lesbian, gay, bisexual, and transgender populations, people with disabilities and other groups distinguished by their ethnicity, native or indigenous origin, culture, religion, belief system, marital status, parental status, socioeconomic status, appearance, language, accent, education, or nationality.

*Equity* is an approach based in fairness to ensuring everyone is given equal opportunity; this means that resources may be divided and shared unequally to make sure that each person has a fair chance to succeed. Equity takes into account that people have different access to resources because of a system of oppression and privilege. Equity seeks to balance that disparity. Equity prioritizes efforts to ensure the most underserved and marginalized among us has as much of an opportunity to succeed as the most well-served and advantaged. By taking the various advantages and disadvantages that people face into account, we work to ensure that every person has an equal opportunity to succeed.

*Inclusion* is the dynamic state of operating in which diversity is leveraged to create a healthy, high-performing organization and community. Inclusion refers to the degree to which diverse individuals are able to participate fully in the decision-making processes within an organization or group. An inclusive environment ensures equitable access to resources and opportunities for all. It also enables individuals and groups to feel safe, respected, engaged, motivated, and valued for who they are and for their contributions toward organizational and societal goals.

### B. Membership

The DEI Commission shall be comprised of nine (9) voting members appointed by the Select Board for three-year, staggered terms (with terms of one-third of the members expiring each year):

- ~~Members will be~~ ~~A current member of the schools' District Wide Cultural Competency Committee~~
- ~~A current member of the Library Committee~~

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~~Seven~~ Concord citizens who reflect the diversity of the community.

An active outreach program shall be initiated to ensure that the broadest range of residents is reached, with the goal that the majority of members shall be from historically underrepresented groups (as defined in the Purpose).

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### C. Duties and Responsibilities

The Diversity, Equity and Inclusion Commission shall:

- Gather first-hand experiences in Concord from historically disenfranchised and under-represented populations (including racial, ethnic, religious, etc.).
- Provide training for committee members to self-examine and recognize their own experience with historically disenfranchised populations and unconscious bias.
- Facilitate discussions and education forums for Concord residents and employers about issues of diversity, equity, and inclusion.
- Provide observations and identify areas of systemic racism in Concord. Develop recommendations of steps to be taken as individuals, organizations, and as a community to combat racism and embrace greater diversity, equity, and inclusion in Concord.
- Develop strategies and tools to assess the current racial climate in Concord (through surveys or other fact-gathering means) and to measure progress.
- Identify ways to promote awareness, engagement, and community building around diverse experiences and to create a more inclusive, welcoming community.
- Work in conjunction and in cooperation with other community, government, cultural and faith groups that are addressing DEI issues, to optimize the availability and use of resources.
- Suggest town-wide events or activities that foster cultural awareness and increase minority participation on government boards and committees.
- Periodically, and no less frequently than once every 6 months, brief the Select Board on progress made in identifying obstacles toward achieving DEI in Concord. Make recommendation to the Select Board to address problems that have been found. Assist with implementation of recommendations, as appropriate.
- In conjunction with the Select Board, periodically review and update the Commission's charge, to assure that its ongoing work is meaningful, targeted, effective, and appropriate.

### D. Other Considerations

Members shall choose a Chair and Clerk. All meetings shall comply with the provisions of the Open Meeting Law, the Public Records Law, the Conflict-of-Interest Law, and all other applicable laws and regulations of the Commonwealth and the Town of Concord.

Town of Concord  
Transportation Advisory Committee  
Charge

**Background**

Our long-range plan, **Envision Concord Bridge to 2030**, lists as Big Idea 3, *a strong need to increase the physical and social connectivity of isolated residents, including seniors, and those living in denser housing areas outside of easy walking distance (1/2 mile) of the village centers. There is also a need to expand non-automobile options for students and teens to get around town to reduce congestion and carbon emissions while increasing their connection to the town's cultural, recreational, and commercial resources. The decentralization of residents, the need to support the village centers to retain independent businesses, and the desire to provide environmentally sustainable low-carbon mobility choices for residents and visitors all create opportunities to consider transportation across multiple needs and strategies. Innovative mobility solutions may also address transportation needs of visitors to Concord and the increased congestion and parking demand resulting from visitors and through-town commuter traffic. Town-owned vehicles could be multi-purpose serving different needs and different segments of the population at different times.* (**Envision Concord Bridge to 2030**, pages 79-81)

Transportation is a federal, state, regional and local issue, and all have impact on Concord. However, this Committee will focus on local sustainable transportation policy. As such it will be a Transportation Advisory Committee (TAC) appointed by the Town Manager and working closely with the Select Board to develop policies which support innovative multi-model actions. The TAC will collect transportation relevant data available from town and school departments, developing policies supporting identified annual actions. The TAC will annually incorporate the goals reflected at Town Meeting in all its planning recommendations.

Because transportation solutions will evolve over time as technologies, town resources, and town and school needs evolve, this committee will annually adjust, initiate and report out policies which reflect changes and growth. There may be important subcommittees focused on specific modes of local transportation, such as bicycle policies, which may include education and safety, recreational and commuter bike-path planning, roadway bicycle use, Bruce Freeman Rail Trail initiatives and other bicycle access issues. Pedestrian issues, will also be addressed including sidewalk planning and priorities, creating pedestrian-friendly areas, including the needs of students, seniors, and those with disabilities. The TAC has the authority to establish subcommittees as needed.

As a first step in this process, the Select Board suggests the formation of a Transportation Advisory Committee (TAC) as a committee of the Town Manager to:

- 1) Review the and evaluate application of tools (e.g. Rail Trail Initiatives, Complete Streets, Parking Studies, Cut Through Study, Traffic Management Group determinations, School Transportation Needs..) in meeting **Envision Concord Bridge to 2030's** local transportation goals (See Section 3, pages 80-81)

<https://concordma.gov/DocumentCenter/View/15250/Final-Envision-Concord-Plan-7-30-18-Full-Version-79MB>.

- 2) Assess the transportation concerns and ideas identified by existing town committees
- 3) Explore and recommend innovative approaches and revenue sources for both new ways of local mobility as well as maintaining and enhancing existing infrastructure. such as state, regional and federal funds, public-private partnerships, grants, etc.
- 4) Explore multi-model transportation options within and through Concord.
- 5) Balance the opportunities for transportation throughout Concord with our goals for, environmental sustainability, stewardship of town historic and cultural resources, support for economic vitality, and the needs of a population of diverse incomes and ages, including public and private school communities.
- 6) Make recommendations as to how the Town can enhance local transportation actions with existing resources
- 7) Explore ways to benefit from neighboring communities, regional and state efforts to achieve similar goals.
- 8) Develop a public education and input process

### Membership

The Transportation Advisory Committee shall be comprised of ~~(9-11)~~9 members appointed by the Town Manager. The term of office shall be three years. Membership shall be as follows:

Town Manager or ~~his~~their designee (ex officio, non-voting)

School Superintendent or ~~her~~their designee (ex officio, non-voting)

~~Director of Planning and Land Management or her designee~~

~~Town Traffic Committee member~~

~~Public Works Representative~~

~~Public Safety Representative~~

~~Council on Aging Representative~~

~~Disability Commission Representative~~

Seven Town Residents (with specialized knowledge of transportation planning; recreational and organized bicycling activities, business and transit-oriented issues).

The Committee shall elect a chair, keep minutes of its deliberations, observe the Open Meeting and Public Records law, the Conflict of interest Law and all other applicable laws and regulations of the Commonwealth as well as all relevant Bylaws and Administrative Policies of the Town fostering a free and open discussion of ideas. The Committee may form up to three subcommittees to address specific issues (e.g. bicycles); the Town Manager may appoint members to the subcommittees that are not members of the full Committee.

**Duties and Responsibilities** Analyze goals and report to the Town Manager and Select Board with specific recommendations that can be implemented to support the goals. Report progress to the Select Board and Town Manager on an ongoing basis.

**From:** tbarveyan <[tbarveyan@yahoo.com](mailto:tbarveyan@yahoo.com)>  
**Sent:** Friday, September 3, 2021 1:56 PM  
**To:** Stephen Crane <[scrane@concordma.gov](mailto:scrane@concordma.gov)>  
**Cc:** Terri Ackerman <[tackerman@concordma.gov](mailto:tackerman@concordma.gov)>  
**Subject:** suggestions on a new TAC charge

Hello Stephen,

As you consider a new charge for the Transportation Advisory Committee with more members as residents and a specific number of members for quorum clarity, may I suggest a couple more ideas?

- 1) That a member who is interested and knowledgeable in natural resources and preservation be included.
- 2) That nominated members be approved by the Select Board.

1) When the TAC was first being formed in January-March 2020, I remember that a member from the Natural Resources or Sustainability Director was mentioned and considered, however you proposed that this would not be necessary as a permanent member, since you could always consult the Sustainability Director if needed.

Now that the Committee is likely to be comprised of mostly residents, it would be helpful to have someone who knows about environmental issues during the discussions.

2) When the TAC Charge was finalized on March 9, 2020, then Select Board Chair Mike Lawson clarified to a public question (from Diane Proctor) that any resident members would be approved by the Select Board.

This did not actually happen with the citizen members of the current TAC. (I have no objection to any of them.)

However, moving forward, it would be a good idea to specify in the Charge that members will be approved by the Select board.

Thank you for considering,

Tanya

# American Rescue Plan Act

Stephen J. Crane, Town Manager  
September 1, 2021

# American Rescue Plan Act (ARPA)

## Summary:

- Signed into law on March 11, 2021; Provides [\\$1.9T](#) in aid for economic stimulus, building upon initiatives funded through CARES and more
- Focusing on [racial equity](#) and an [equitable recovery](#)
  - applications from Black, Latino, Asian, and Native American groups will be prioritized
- Includes funding for:
  - Extension of unemployment benefits; paid leave benefits; direct payments to individuals
  - Tax provisions: expands child tax credit, earned income tax credit; student loan forgiveness
  - Grants to small businesses
  - Education aid: ventilation projects, reduction in class size
  - Housing aid: rental assistance, energy assistances
  - Many other additional components

# Main Categories of Funding for Municipalities

- **Coronavirus Local Fiscal Recovery Fund (CLFRF) = \$350B**
  - \$3.4B provided to MA, for municipalities & counties through direct (entitlement) or indirect awards (non-entitlement/ NEU)
  - **Spending Timetable**= funds must be expended by December 31, 2024
- **Capital Projects Fund = \$10B**
  - Minimum of \$100M to each state; competitive process; application to State
- **Economic Development Administration Grant Programs = \$3B**
  - Environmental justice grants for targeted improvements; application to US EDA; competitive process

# Coronavirus Capital Projects Fund

- [\\$10 billion](#) allocated to states, territories, and Tribal governments to carry out critical **broadband** capital projects directly enabling:
  - Work, including remote options
  - Education
  - health monitoring
- MA allocation is [\\$175,362,478](#)

# Economic Development Administration Grant Program

- **Jobs for Today**
    - Travel, Tourism & Outdoor Recreation = \$750M
    - Good Jobs Challenge = \$500M
  - **Communities Built for All**
    - Economic Adjustment Assistance = \$500M
    - Indigenous Communities = \$100M
    - Coal Communities Commitment = \$1B
  - **Regions for the future**
    - Build Back Better Regional Challenge = \$1B
    - Statewide Planning, Research & Networks = \$90M
- 
- Travel, Tourism & Outdoor Recreation: accelerate communities impacted by Covid-related travel & tourism decline through state grants (\$510M) and competitive grants (\$240M)
  - Good Jobs Challenge: establish or strengthen regional systems to train workers with in-demand skills through employer-driven training, supporting participants with wrap-around services and employer commitments to hire
  - Statewide Planning, Research & Networks: invest in economic plans, research to assess the effectiveness of EDA's programs, and support for stakeholder communities around key EDA initiatives

# Coronavirus Local Fiscal Recovery Fund (CLFRF)

## Amount Allocated

- \$5.6M provided to Concord (\$5,654,720)
  - \$1,980,120 for municipal
  - \$3,674,600 for share of non-existent county
  - Received to date = \$2,827,360 (50%, balance to be received not less than 12 months after first payment)
  - Spent to date = \$0

## • Eligible Uses

- **Public Health:** Covid-19 mitigation efforts, medical expenses, behavioral health & certain public health & safety staff
- **Economic Impacts of the public health emergency:** efforts to mitigate economic harm to workers, households, small businesses, affected industries & public sector
- **Lost revenue:** to fund government services to the extent of revenue reductions
- **Premium pay for essential workers:** additional support for those who have faced the greatest health risks because of their service in critical infrastructure
- **Water, sewer & broadband infrastructure:** investments to improve access

## • Ineligible Uses

- Replenish a reserve fund
- Deposit into a pension fund

# Suggested CLFRF Allocation for discussion purposes

- **Eliminate the “blip”**
  - Lost revenue, using FY19 actual as base
    - FY21: assumed loss of \$2.15M; actual loss was \$1.84M
    - FY22: assumed loss of \$2.18M
    - Restore lost Parking Meter Revenue
    - Restore postponed and/ or lost Wage Growth
- **Moving Forward/ Build Back Better**
  - Broadband expansion connections in business districts
  - Targeted infrastructure improvements
  - Business assistance programs
- **Contingency**
  - Unknown or unforeseen needs
  - Flexibility to meet changing priorities

# American Rescue Plan Act

- Questions
- Comments
- Discussion



August 16, 2021

To the Select Board, Finance Director, and Town Manager,

The August 16, 2021 Select Board packet contains a memorandum from Anderson & Kreiger which is dated August 9, 2021. This memorandum contains many false and/or misleading statements.

The memorandum states:

*“...unexpected costs were incurred in calendar year 2020 - due to defendants’ unilateral closure of Estabrook trial[sic], and the subsequent unsuccessful negotiations and preliminary injunction proceedings...”*

The Town’s decision to seek a preliminary injunction was purely discretionary, and therefore the associated expense cannot be considered “unexpected,” but was rather a choice made by the Town. Furthermore, the Town incurred this expense without consulting with taxpayers in a properly noticed venue to determine if it was an expense taxpayers wished to incur. Also, the Town did not engage in any “negotiations” with the Read/Kay defendants as described by Town Manager Stephen Crane in a Carlisle Mosquito article<sup>1</sup> dated July 10, 2020. The absence of negotiations with the Read/Kays may be confirmed by making a document request for the (non-existent) negotiation documents.

The memorandum states:

*“...pre-trial work was more time-consuming than anticipated, due largely to defendants’ efforts to question the Harvard settlement and force Harvard to re-enter the case...”*

Defendants did not “question the Harvard settlement” to “force Harvard to re-enter the case,” but rather informed Harvard that the Town had declared to the judge an intent to seek a ruling involving Harvard’s land. As Harvard was not then involved in the case, Harvard had no idea that the Town had declared an intent to seek a ruling on Harvard’s land. Remaining defendants informed Harvard of the Town’s intent to seek a ruling involving Harvard’s land. When the judge learned of this issue, he ordered Harvard to rejoin the lawsuit as an “*indispensable party*.” The related court docket entry is shown below, with the Court explicitly recognizing the Town’s intent to violate the Harvard Settlement Agreement with the statement, “...*notwithstanding agreement between the Town of Concord and Harvard that the town would not seek rulings affecting Harvard’s property interests.*”

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<sup>1</sup> This Carlisle Mosquito article: <https://www.carlislemosquito.org/index.php/search/?id=36649> states that Crane said “...*the two sides have continued to meet, as recently as last week...*,” but the Town had no such interactions with the Read/Kays.

Case Details - Massachusetts Trial Court  
https://www.masscourts.org/eservices/search.page.3?x=shwE5O... 140%

## Massachusetts Trial Court Electronic Case Access

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### 17 MISC 000605 Town of Concord v. Rasmussen, Neil E. , et al. SPEICHER

09/10/2020 Pretrial conference held by videoconference. Attorneys Diane Tillotson, Ryan McManus, Howard Cooper, Matthew Furman, Robert Nislick, Vanessa Arslanian, Kevin Batt, and Melissa Allison appeared by videoconference. Attorney Lisa Goodheart appeared for former defendant Harvard College. Court considered arguments with respect to the effect, if any, proposed evidence would have on Harvard College's ownership interest in portions of the Estabrook Trail, notwithstanding agreement between the Town of Concord and Harvard that the town would not seek rulings affecting Harvard's property interests. Court concluded that given the intertwining interests in the trail, Harvard is an indispensable party, and accordingly, the court ORDERED Harvard to rejoin case as an indispensable party. All motions in limine to be filed by October 20, 2020. Oppositions to motions in limine to be filed by November 4, 2020. Hearing on motions in limine to be held November 10, 2020 at 10:00 A.M. Trial to be held over the following days: February 23, 2021, February 24, 2021, February 25, 2021, March 2, 2021, March 3, 2021, March 4, 2021. Given Harvard's late re-entry into the case, court will consider reasonable requests by Harvard with respect to discovery and trial date at hearing on motions in limine.

09/11/2020 Scheduled

eServices Provided by: **eQuivant**

CourtView Justice Solutions Inc. an equivalent company, Copyright 2020 1.29.05 WCAG Compliance

The memorandum argues that “*unexpectedly high fees*” related to Harvard’s re-entry into the lawsuit are the result of factors such as:

*“Harvard’s argument required additional research into centuries-old title records and additional historical Town records, as well as expert discovery and an expert deposition.”*

From the very beginning of this case, the Town has repeatedly stated that ancient records would prove its case, and has also relied on expert testimony. It is wishful thinking for Town Counsel to have expected anything less costly from the defendants, including Harvard.

Finally, we would like to point out that the Town has repeatedly (and falsely) referred to the *Town of Concord v. Neil Rasmussen et al* lawsuit as “*protecting the public’s rights to access Estabrook Trail.*” But the public has no rights to access Estabrook Trail - the purpose of the lawsuit is to create such rights. Yet despite the purpose of the lawsuit being to create a new right (rather than protecting an existing right), the Town has never asked its citizens if this is what they wanted to do with their tax money. All of the lawsuit expenses are being incurred in an attempt to create a public right for which the public has never been offered a properly noticed venue in which to express its opinion either for or against these expenditures.

We are copying our attorney Howard Cooper on this letter.

Brooks Read  
Susannah Kay MD  
366 Estabrook Road

**From:** Joseph Selle <[jcselle2000@yahoo.com](mailto:jcselle2000@yahoo.com)>

**Sent:** Monday, August 23, 2021 5:36 PM

**To:** Stephen Crane <[scrane@concordma.gov](mailto:scrane@concordma.gov)>; Erin Stevens <[estevens@concordma.gov](mailto:estevens@concordma.gov)>

**Cc:** Terri Ackerman <[tackerman@concordma.gov](mailto:tackerman@concordma.gov)>; Susan Bates <[sbates@concordma.gov](mailto:sbates@concordma.gov)>; Linda Escobedo <[lescobedo@concordma.gov](mailto:lescobedo@concordma.gov)>; Matthew Johnson <[mjohnson@concordma.gov](mailto:mjohnson@concordma.gov)>; Henry Dane <[hdane@concordma.gov](mailto:hdane@concordma.gov)>; Jeremy Romanul <[jromanul@concordma.gov](mailto:jromanul@concordma.gov)>

**Subject:** Reformatory trail paving idea

To the Concord Transportation Committee with CC to the Select Board –

I am a long-term resident of Concord having moved here in 1998. I moved from Watertown in large part for immediate and easy access to conservation land. You will find me all over town on my bike, jogging, walking, kayaking or skiing in the winter. I currently live at 22 Davis Court, and frequently get on the Reformatory Trail system jogging or biking – at least several times per week. I am a big user of this resource. Never once have I wished this trail was paved. In fact, whenever I ride outbound from Lexington/Bedford to Concord, it is always a welcome moment when the trail transitions to dirt. It's so much more intimate and wild feeling. The air actually smells better too - of spruce, pine and dirt, rather than asphalt. Why are we considering widening and paving this portion? This is exactly the wrong direction to go. Have any longtime users of this area (like me) ever suggested to this Board that there is a problem with the trail and the answer is paving it? I do not approve.

We do not need more pavement in Concord. It is especially problematic that we are even considering pavement and a path widening within a protected wildlife area. There are species that live there and no animal is a fan of pavement. (Please go to the blackboard at the start of the birding trail near the parking lot of Great Meadows and you will see a long list of birds, reptiles and mammals that have recently been spotted in the area). This area is their home, and we should protect them and their way of life.

The dirt trail in Concord complements the paved portions that are inbound from us. It does not all need to be pavement. If a rider wants pavement, they can go to Bedford or the new Bruce Freeman trail. Its precisely the dirt and naturalistic aspects of Reformatory that set it apart as a more authentically wild trail. This trail is one of the best for riding, walking and jogging, just as it is!

Who is advocating for this plan? There is no way that this plan represents an 'improvement' to anything. Let's uphold Concord's rich history on conservation and decide on the part of the land and animals, not on the side of pavement addicted recreational planners and roadway engineers. How about if we rally around and provide financial support to plans that expand open space, support species conservation and drive environmental sustainability? A new paved path does none of these things.

Thank you for your service on the Transportation Board and the Select Committee. Please continue your good service by opposing this bad idea.

Respectfully submitted,

Joseph Selle  
22 Davis Court  
Concord, MA

**From:** Erin Sharaf <[erinsharaf@gmail.com](mailto:erinsharaf@gmail.com)>

**Sent:** Monday, August 23, 2021 6:11 PM

**To:** Erin Stevens <[estevens@concordma.gov](mailto:estevens@concordma.gov)>; Susan Bates <[sbates@concordma.gov](mailto:sbates@concordma.gov)>; Linda Escobedo <[lescobedo@concordma.gov](mailto:lescobedo@concordma.gov)>; Matthew Johnson <[mjohnson@concordma.gov](mailto:mjohnson@concordma.gov)>; Henry Dane <[hdane@concordma.gov](mailto:hdane@concordma.gov)>; Jeremy Romanul <[jromanul@concordma.gov](mailto:jromanul@concordma.gov)>; Stephen Crane <[scrane@concordma.gov](mailto:scrane@concordma.gov)>; Terri Ackerman <[tackerman@concordma.gov](mailto:tackerman@concordma.gov)>

**Subject:** No to 'improving' the trail

To the Concord Transportation Committee with CC to the Select Board –

I moved to Concord in 2014 in large part for the conservation land. You will find me enjoying all the natural places in town. I live very close to the Reformatory Trail system and jog, bike or walk on it regularly.

Never once have I wished this trail was paved. In fact, whenever I ride outbound from Lexington/Bedford to Concord, it is always a welcome moment when the trail transitions to dirt. It's so much more intimate and wild.

The air actually smells better too - of spruce, pine and dirt, rather than asphalt. Why are we considering widening and paving this portion? This is exactly the wrong direction.

We do not need more pavement in Concord (or anyplace).

It is especially problematic that we are even considering pavement and a path widening directly adjacent to a protected wildlife area. There are many species who live there and no animal is a fan of pavement. Please go to the blackboard at the start of the birding trail near the parking lot of Great Meadows and you will see a long list of birds, reptiles and mammals that have recently been spotted in the area. This is their home too, and we should protect them and their way of life.

Many naturalists conduct field studies in Great Meadows. This is an essential gem for our town---and the Commonwealth. The trail already bisects the Spring migration of the threatened Blanding's turtle. Last spring I saw a large turtle ambling along the side of the trail.



Another threatened species, the Britton's violet, lives adjacent to the current path.

Bringing more people who are moving faster into this area would be a grave error.

It's not the worst thing in the world to encourage people to slow down.

Who is advocating for this plan? There is no way that this plan represents an 'improvement' to anything. Let's uphold Concord's rich history on conservation and decide on the part of the land and animals.

As one of our most famous ancestors said:

**"We need the tonic of wildness... We can never have enough of nature." Thoreau**

Thank you for your service on the Transportation Board and the Select Committee. Please continue your good service by opposing this bad idea.

Respectfully submitted,  
Erin Sharaf  
22 Davis Ct. Concord

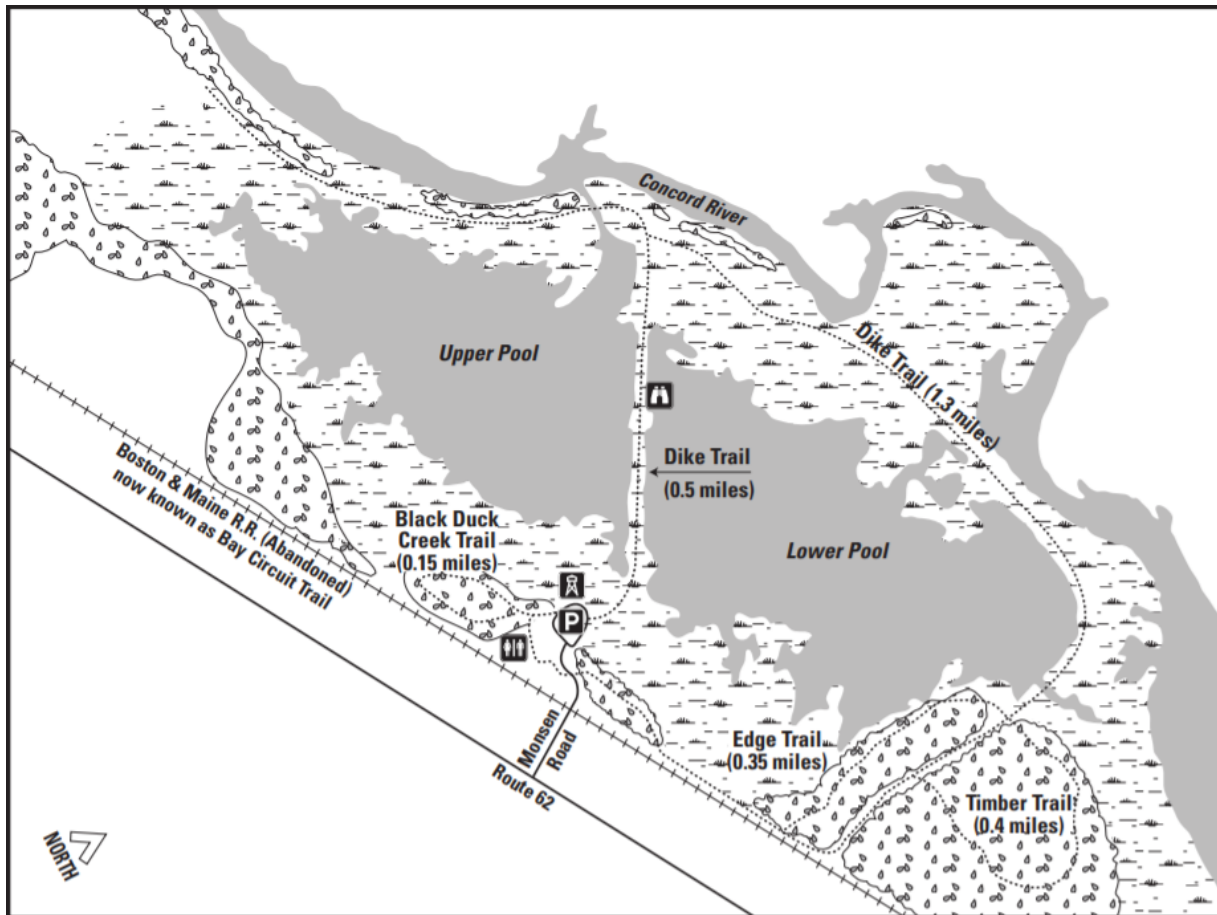
To the Concord Select Board and Selectboard Candidates,

I strongly encourage the Select Board to take **NO ACTION** on the proposal to change/"improve" the Concord section of the Reformatory Branch Trail in Concord.

I am a long-time member of the Friends of the Bruce Freeman Rail Trail and beneficiary of the myriad of rail trails in Concord and around our Commonwealth.

An essential tenant of a rail trail and, in fact, any public recreational site is the trade-offs between public access and the environmental/wildlife impact of any change in access modes or patterns.

The Reformatory Branch trail passes within a very short distance of the Great Meadow's Dike trail, which passes through extremely sensitive wildlife habitats—for birds, turtles and fauna. Many naturalists conduct field studies in Great Meadows. This is an essential gem for our town---and the Commonwealth.



The Reformatory Trail is already multi-use—providing access for bikes, walkers and strollers. I do not think paving the Concord section serves any purpose—for our town or the environment:

- Encouraging more traffic to Great Meadows is a problem in itself. Car traffic is limited by design. There are a limited number of bike stations. If the Reformatory Branch Trail is paved, I sincerely worry that the use of Great Meadows will be stressed.

Reformatory Branch Trail is not a new topic for the Town of Concord. In 1995, the Report of the Bikeways Taskforce (PDF attached). Pages 5 & 6 summarize the extensive analysis done by this taskforce. Bottomline, this group of Concord citizens (along with the US Fish and Wildlife Service) recommended NOT developing the Reformatory Branch Trail as a bike path:

Consideration of the development of this corridor into a bikepath engendered by far the most controversy of any of the corridor options being considered by the Task Force. The greatest concern of the Task Force and of the public has been the environmental impact that could result from the development of this corridor. The right-of-way bisects the spring migration route of Blandings turtles, a threatened species, and considerable concern was expressed that the development of a paved, heavily-traveled path would further threaten the viability of these animals and their surrounding nesting habitats.

Another threatened species, the Britton's Violet, has a limited habitat next to the right-of-way, and development of a path and the increased users of the path is seen as a threat to the habitat of these species.

The U. S. Fish and Wildlife Service has also objected to the development of the path because of the substantial numbers of persons who would use the path and the inevitable increase in use that would occur at the Great Meadows Wildlife Refuge. The Service is concerned that the resulting overuse of

trails in the Refuge could threaten the viability of the area and compromise its primary purpose.

Because of these legitimate concerns, the Task Force does not recommend development of this former rail bed as a bike path. It currently has considerable use as a recreational path and this pedestrian use should continue to be encouraged. However, improvements to the right-of-way as a walking trail should be conducted in such a way that it doesn't become a defacto bicycle path. This may be a challenge, given the accessibility of mountain bikes; however, the goal should be the reservation of this trail for passive pedestrian use.

Citizens of Concord are blessed by many wildlife refuges. It is our obligation, as a town, to protect these habitats for the current habitats of these refuges and for the education and enjoyment of current human residents and our many family members in the future.

Sincerely,

Ellen Quackenbush  
206 Prairie St  
West Concord

**From:** [David Allen AB63@post.harvard.edu](mailto:David_Allen_AB63@post.harvard.edu) <[David Allen AB63@post.harvard.edu](mailto:David_Allen_AB63@post.harvard.edu)>

**Sent:** Saturday, August 21, 2021 5:04:33 PM

**To:** Terri Ackerman <[tackerman@concordma.gov](mailto:tackerman@concordma.gov)>; Matthew Johnson <[mjohnson@concordma.gov](mailto:mjohnson@concordma.gov)>; Susan Bates <[sbates@concordma.gov](mailto:sbates@concordma.gov)>; Henry Dane <[hdane@concordma.gov](mailto:hdane@concordma.gov)>; Linda Escobedo <[lescobedo@concordma.gov](mailto:lescobedo@concordma.gov)>

**Subject:** Recap – a review of the SB, one instance

Terri, Matt, Susan, Henry, Linda,

Please find a recap of the intervention Monday night.

A part of your meeting Monday was a review of the Town Manager, sometimes quite directly to the point. My comments later, recapped below, are the counterpart, a review of the Select Board re this instance, by one member of the group to whom you report, citizens.

As with any review, of course there is more than the brief moments Monday night. Especially, this is in the context of great appreciation for the work you do for Concord. In that vein as only one example, how collegially you work with each other, to resolve differences amongst yourselves.

To follow on, you are invited, of course, to investigate how this problem came to pass, then to steps that may underlie better outcomes a next time.

Thank you,

David

David Allen  
316 Heaths Bridge Rd

978 902 3000 – mobile  
[David\\_Allen\\_AB63@post.harvard.edu](mailto:David_Allen_AB63@post.harvard.edu)

Recap

The creation of the fiber completion task force has occasioned opportunity to inspect the process by which the Select Board got there. Three facets of the process stand out for inspection.

But first, important to say: not only is this not the place to re-litigate the questions – to do so would not be helpful, would positively distract from the point. Which is to consider the process. So the three items are identified only with summaries, sans workup.

One is:

Whether the 5:2 ratio of slots, required representation to citizen at-large, should be adjusted 4:3, enabling membership for three technically qualified citizens at-large.

Two is:

Whether a committee, in this case the PEG Access Advisory Committee, which is not in the Article text and does not work on the subject, should also have a required slot on the task force.

Three is:

The page of problematic text inserted in a draft of the charge.

The last, the problematic text, was finally removed at the Select Board meeting the prior week. But only at the 11th hour, when the charge otherwise was about to be approved, uncorrected. And only after an entirely undue amount of effort had to be expended, to get attention and get to suitable text.

The first two questions, however, were not dealt in open discussion. And now we see, from earlier in the evening, the failure to do so led to a mistaken conclusion by the Select Board.

An intervention earlier in the evening came to the view that the SB had advanced three technically qualified appointees to the task force. But, that was based on the mistaken proposition that both citizen at-large appointees are technically qualified. Demonstrably that is not the case, as attested by one of the citizen at-large appointees herself, cited below.\* A mistake, with real world consequences. This failure was then embedded in the actions you voted: there were not, and are not, as at least one SB member intended, three technically qualified appointees.

But again, the point is not to re-adjudicate the matter. Rather. We have direct illustration how failures of process, in this case not to hold adequate open discussion, have real world consequences. As we see.

The state's Open Meeting law of course requires open and transparent deliberation by our Select Board. For obvious and compelling reason.

But well beyond any tenets of the law. I, for one, am most deeply appreciative for the very large amount of work our Select Board does for the community.

At the same time, for reasons of a robust democracy, where we citizens elect the Select Board to represent us – we, through you, need to ensure that consequential matters in contention are all dealt in open deliberation, by our Select Board.

In this case, that did not happen.

\*

From email Aug 12, 2021:

David,

I do not consider myself technically knowledgeable in the field of networking. My expertise is environmental engineering and law, as well as government policy and writing.

...

Gail

**From:** Louisa Paushter <[lpaushter@gmail.com](mailto:lpaushter@gmail.com)>  
**Sent:** Monday, August 23, 2021 5:38 PM  
**To:** Terri Ackerman <[tackerman@concordma.gov](mailto:tackerman@concordma.gov)>  
**Cc:** Erin Fife <[ejfife@gmail.com](mailto:ejfife@gmail.com)>; Nancy Brown <[nancygutfeldbrown@gmail.com](mailto:nancygutfeldbrown@gmail.com)>; Shari Barzun <[sbarzun@gmail.com](mailto:sbarzun@gmail.com)>; Annabelle Paushter <[apaushter@gmail.com](mailto:apaushter@gmail.com)>  
**Subject:** Green Card

Hi Terri,

A few weeks ago I spoke with my 19 year old daughter about the DEI Commission because I thought it might be of interest to her. She is a young person of color who has a lot of perspective having grown up in Concord her whole life. She is taking a gap year this year. When I told her that she needed to fill out a green card in order to express her interest, she expressed immediate concern over the name for the form. She explained that, whether or not it was the intention, the term “green card” is closely related to immigration policies and paperwork. She thinks that it is odd for an all-white select board to ask interested individuals, especially those of color, to fill out a form with the same name of the card that the government asks immigrants to do so in order to enter and live in the country. I explained that the physical card is green, and her response was that it is time to update the name, since most people will apply online anyway. We suggest changing the name to “Volunteer Card” or something else.

Thank you,  
Louisa Paushter  
Annabelle Paushter

Louisa Paushter  
Co-Chair  
Concord Carlisle Human Rights Council  
[cchumanrights.org](http://cchumanrights.org)  
978-884-4273

**From:** [bruce\\_blumberg@grassrootsmessages.com](mailto:bruce_blumberg@grassrootsmessages.com) <[bruce\\_blumberg@grassrootsmessages.com](mailto:bruce_blumberg@grassrootsmessages.com)>

**Sent:** Thursday, September 2, 2021 11:04 AM

**To:** Susan Bates

**Subject:** I am urging you to help resettle 125,000 refugees this year

Selectman Bates, As your constituent, I am writing to urge you to consider supporting and signing on to this state and local elected leader letter which calls on the President to resettle 125,000 refugees in the coming fiscal year. As my elected representative, your voice matters, and the President needs to know: our community welcomes refugees and wants to help them. We are facing the worst refugee crisis in history, with more than 82 million displaced people around the world, including 26 million refugees, half of whom are children. Close to 1.5 million refugees need to be urgently resettled to safety. Recently, the Biden Administration announced that the refugee resettlement program would serve as a mechanism for providing safety to certain Afghans who supported U.S. operations and whose lives are now at risk. Our community can do more to help. By signing on to this letter, you are demonstrating to the President, and the world, that Concord, MA stands with refugees. To learn more about the letter or sign-on, please click here: <https://welcomingrefugees2022.org/>. Thank you for considering this request. Thank you, Bruce Blumberg 36 Lowell Rd, Concord, MA, USA

## Jeremy Romanul

---

**From:** Joseph Selle <jcselle2000@yahoo.com>  
**Sent:** Monday, August 23, 2021 5:37 PM  
**To:** Stephen Crane; Erin Stevens  
**Cc:** Terri Ackerman; Susan Bates; Linda Escobedo; Matthew Johnson; Henry Dane; Jeremy Romanul  
**Subject:** Reformatory trail paving idea

To the Concord Transportation Committee with CC to the Select Board –

I am a long-term resident of Concord having moved here in 1998. I moved from Watertown in large part for immediate and easy access to conservation land. You will find me all over town on my bike, jogging, walking, kayaking or skiing in the winter. I currently live at 22 Davis Court, and frequently get on the Reformatory Trail system jogging or biking – at least several times per week. I am a big user of this resource.

Never once have I wished this trail was paved. In fact, whenever I ride outbound from Lexington/Bedford to Concord, it is always a welcome moment when the trail transitions to dirt. It's so much more intimate and wild feeling. The air actually smells better too - of spruce, pine and dirt, rather than asphalt. Why are we considering widening and paving this portion? This is exactly the wrong direction to go. Have any longtime users of this area (like me) ever suggested to this Board that there is a problem with the trail and the answer is paving it? I do not approve.

We do not need more pavement in Concord. It is especially problematic that we are even considering pavement and a path widening within a protected wildlife area. There are species that live there and no animal is a fan of pavement. (Please go to the blackboard at the start of the birding trail near the parking lot of Great Meadows and you will see a long list of birds, reptiles and mammals that have recently been spotted in the area). This area is their home, and we should protect them and their way of life.

The dirt trail in Concord complements the paved portions that are inbound from us. It does not all need to be pavement. If a rider wants pavement, they can go to Bedford or the new Bruce Freeman trail. Its precisely the dirt and naturalistic aspects of Reformatory that set it apart as a more authentically wild trail. This trail is one of the best for riding, walking and jogging, just as it is!

Who is advocating for this plan? There is no way that this plan represents an 'improvement' to anything. Let's uphold Concord's rich history on conservation and decide on the part of the land and animals, not on the side of pavement addicted recreational planners and roadway engineers. How about if we rally around and provide financial support to plans that expand open space, support species conservation and drive environmental sustainability? A new paved path does none of these things.

Thank you for your service on the Transportation Board and the Select Committee. Please continue your good service by opposing this bad idea.

Respectfully submitted,

Joseph Selle

22 Davis Court  
Concord, MA

August 15, 2021

Dear Concord Select Board and Town Manager,

Nearly four years ago, the Estabrook lawsuit commenced by the Town has cost Concord citizens over one million five-hundred thousand dollars and is still climbing. Another Massachusetts case seeking access over private land took 12 years, another has open issues after 18 years. This lawsuit has inflicted inexpressible levels harm on the families sued and the loss of millions from their savings and resources. This acute harm was inflicted on the very families that shared their property with others for decades. Sadly, there is potential for millions more to be spent. As these exorbitant legal fees drain resources from both the Town and the defendant citizens, who have actively supported Town charities, the Town has been doubly deprived of resources.

This case is about the Town attempting to seize control of a private trail, through residential property, that leads only to private land. The Town Counsel encouraged the Town to bring this case, clearly assuring the Town that it would not be anywhere near this costly. As Town Counsel expanded the case they have repeatedly provided cost estimates which have been grossly understated and required repeated depletions of the Town's reserve funds and other department transfers. When asked to explain these spectacular cost overruns, Town Counsel has repeatedly avoided taking any responsibility and consistently *blamed the defendants they sued* for these expenses. These are hurtful and outrageous claims that require a response. The facts, as outlined below, demonstrate that the blame for the expansion of this case and its costs rests entirely upon the Town Counsel.

### The Case Was Not Necessary

This case was not necessary. The Town was offered use of the private Trail by the owners on *four occasions* and declined to accept all offers. The owners of the Estabrook Woods offered the public a license for use of their Estabrook Trail in 2016; the Town refused to accept this license but offered instead to enter into an agreement with the owners on agreed terms. The owners, in good faith, worked with the Town to develop such an agreement *and agreed to every term requested by the Town*. Nevertheless, after the agreement was finished, and the Town Manager accepted all revisions, Town Counsel told the Select Board and Town Manager not only to reject the agreement but to cut off negotiations regarding it. A third opportunity occurred after the Town filed the lawsuit, when the court encouraged the parties to resume the negotiations that the Town had previously cut off. The owners entered into expensive mediation in good faith and proposed a *third* agreement with the Town. Town Counsel rejected all the terms of that agreement with the resident defendants, but incredibly and inexplicably chose to agree to nearly identical terms with one defendant -- Harvard University. Finally, during a temporary Trail closure during the coronavirus, the owners again made proposals to the Town to allow public use; these offered plans could have resolved the overall issue, but the Town chose instead to file a surprise, expensive injunction without collaborating on the problems with the owners. All of these were opportunities lost by the Town, which would have

avoided the costs and problems caused by the Town's lawsuit. Former Concord Select Board members and former Town Counsels have all found the tenor of aggression and lack of desire to work with fellow citizen to be inconsistent with the historic values of Concord. The root cause is that, with the transitions of the Select Board and Town Manager, **the Town government abdicated oversight of the situation and passed all decision making and responsibly to Town Counsel.** Instead of working with its citizens, the defendants find that the Town leaders sadly hired mercenaries to wage a painful war against them and abandoned the Town's oversight responsibilities, which should include an obligation to seek, above and beyond all else, the truth.

Defendants pleaded with the Town to work on an agreement rather than to incite hurtful discord with a lawsuit. In discussions with the former Town Manager, it was agreed that the case would cost millions and go on for years. Despite being well-aware that the case would cost millions, the Town via Town Counsel has continued to understate the cost to citizens, apparently to avoid questions from citizens who would want to understand more about the case before engaging in such an expense.

The Town lost much more than funding when it decided to sue its citizens rather than work with them toward a solution. Prior to the lawsuit, some landowners were working toward improving and expanding the trail system in the Estabrook Woods. This collaborative work had its foundation on the long-standing policy of the Town to engage in public-private partnerships with landowners, as documented in earlier open-space and master plans. We now realize that welcoming visitors to our land, making and maintaining trail improvements, and constructing a parking area were tragic mistakes. When our requests for help were met first by threats and then a lawsuit, it made us understand that we are no longer partners -- but now viewed as adversaries. Instead of the planned new and improved trails in Estabrook Woods, our once imagined dreams and plans have been cancelled and over three miles of trails have been closed to the public. Fences, gates, and no-trespassing signs are going up. Other landowners in Concord and even surrounding towns, having heard of this lawsuit, are quietly but quickly closing their trails.

The Town's underappreciated Natural Resource Department for years has unsuccessfully sought funding of even a few thousand dollars for trail maintenance. The cost of this lawsuit could have improved the trails and built and maintained parking areas for **EVERY** Town property in Concord. The Town instead chose to use these funds to sue private landowners for access between their homes on a single private trail *that leads only to private land*. The Town admits the subject Trail is on private land and is only one of 17 other entrances that lead to the Woods. Not only was the lawsuit unnecessary, but the disputed entrance to the private land is itself redundant and unnecessary.

From a cost perspective, it is important to understand that when the Town filed the case, it was not expected to proceed. As was verbally communicated to the defendants, the Town filed the case as a strategic weapon to intimidate the owners and pressure them to concede their land.

The Town thought that the threat of the Town's unlimited ability to spend on lawyers would force the owners to capitulate instead of having to spend enormous sums to defend themselves. A key reason why the defendants have continued is that the lawsuit complaint itself was an unprofessional venomous list of unfounded allegations and lies, including personal attacks and accusations against the owners, which the defendants felt any citizen would be morally obligated to respond to as a matter of honor.

## The Case Should Have Been Simple

On the surface, this lawsuit should have been simple. In Massachusetts, rights regarding lands such as the Estabrook Trail are always in the form of written deeds or easements which should be simple matters to decide based on a few documents. Rights that a Town has regarding roads or trails are required by law to be documents held by the Town Clerk and presented on request. The Town should not have brought the case without first finding such documents. Nevertheless, the Town brought the case expressly saying that they did not have such documents *but expected to find them*. The Town's subsequent adventure to find these documents has been very costly and caused multiple changes of direction.

Although the case could have been avoided entirely, the Town launched the case -- and the cost has shown itself to be completely out of control. The reason for this is simple: that the Town Counsel has changed their entire theory of the case multiple times, essentially starting the case over again and causing large amounts of work and expense to be wasted by both the Town and the distraught citizens who have been targeted in this lawsuit.

## How the Case and its Cost Expanded

The **first** and most dramatic change to the case happened when it started. Documentation showed that the Trail was legally discontinued as a public way by Middlesex County in 1932. The Town Counsel reviewed the applicable law and opined that the 1932 action retained the road as a public way, and on this basis encouraged the Town to sue the owners. *However, the Town Counsel reviewed the wrong law.* The Counsel reviewed the current law, which was not the 1924 law, which was in force in 1932 when the road was discontinued. The current law, which the Town counsel mistakenly believed applied, relinquished the Town's maintenance responsibility. The old law, under which the Trail was discontinued, eliminated the public way, converted it to a private way, and required the way to be posted to "warn the public against entering thereon." *Every other way found around Massachusetts that was discontinued under the old statute has reverted to private property, including four such roads in Concord and twenty-seven in Middlesex County.* Basing their decision on the wrong law was the initial error made by the Town Counsel, but they did not realize it until after they had advised the Town to sue the landowners. This error dramatically expanded the case by requiring entirely new and unexpected alternative approaches by Town Counsel. The Select Board should take note that the author of this initial opinion, Town Counsel Andrew Fowler, exited Andersen Krieger shortly after this error was discovered.

This was only the beginning of a series of mistakes and restarts. In a **second** effort, a number of Concord Citizens, including members of the Select Board, convinced the Select Board that citizens must have acquired “squatter’s rights” to the owners’ land, legally known as a “prescriptive easement,” due to recent recreational use by walkers. Town Manager Whelan asserted this claim in the *Concord Journal*, and it was repeated by Select Board members at Town meeting. Town Counsel recruited over 30 citizen witnesses and scheduled interrogatories, admissions, and documents from the property owners. Town Counsel extensively deposed the owners for many days on this subject, and the owners were required to produce thousands of documents. This effort cost hundreds of thousands of dollars and proceeded for almost two years. However, after all of this work, Town Counsel came to the realization that the owners had permitted public use of their land, and the Town’s own witnesses admitted this. It is well established that if public use is permitted on private land, then no easement can accrue. Furthermore, it was found that all the recent use of the Trail was recreational, and it is also well established in the law that no easement rights can accrue for recreational use. These realities forced Town Counsel to notify the court that it would abandon that part of the case, which had consumed hundreds of thousands of dollars and nearly two years. Incredibly, the defendants had written the Town in advance stating that this part of the case had no basis in the law, but Town Counsel chose to ignore these communications and proceeded to expend years of time, along with the Town’s and landowners’ resources, only to withdraw this claim in the fall of 2019.

A number of additional costly restarts of the case occurred when the Town Counsel realized they did not have the documents of any rights in the old Trail and sought to find alternatives. Although the Town is required to have documentation of claimed roads and easements, and does have them for essentially every road in town, none could be found for the Trail because it is an old private logging road. To try to overcome this problem, the Town hired “experts” to create alternative justifications and explain why there were no records. This spawned a number of costly and time-consuming legal paths.

The **third** restart began when the Town hired one expert to try to prove the Town’s claim that there were documents for the road from the late 1600s. The expert provided a report to the Town finding three roads of that time near the Estabrook Woods, but that the roads were created by the owners on their own land and *not* by the Town; furthermore, none of those three roads was the Estabrook Trail. This was a costly dead end which consumed considerable time, and the Town’s expert was forced to start again looking for a different origin of the Trail.

The **fourth** restart occurred when the Town’s expert produced a detailed report asserting that the southern part of Estabrook Trail was a Town Way described in certain Town records of 1734. The expert testified he was certain of this and provided extensive documentation to support his conclusion. However, Town Counsel failed to let the expert know that the landowners had already provided an analysis to the Town showing that the 1734 record was instead the documentation of Monument Street. *The town expert had produced elaborate,*

*incorrect evidence at public expense.* The expert initially defended his report, but eventually informed the Town he could no longer continue to make the claim – and admitted that the defendant landowners were correct. After a year of time and expense, the Town was forced to abandon this theory and start yet again.

In a **fifth** start, the Town's expert then opined that part of the Trail was created in 1763 by the county. This way was first proposed to the 1763 Concord Town Meeting where it was voted down. After extensive and costly research, it was found this documentation only includes a portion of the Trail in the north of the Woods, did not include the disputed southern portion of the Trail, and that it was proposed on condition that the owners along the Trail give their land, a condition which was never satisfied. In any case, the proposed trail was to be a private way for the use of a short list of landowners.

If the Town had found documentation of the Trail as a Public Way, much of this expense could have been avoided. Without the documentation of any rights to the Trail, the Town was forced to embark on additional new claims. In the **sixth** major component of the case, Town Counsel hired yet another expert, who was instructed to prove that the road had existed since the 1600s as a major road, on the principle that the Trail might be so old that it pre-dates any records. This expert was provided various legends and stories about the old woods and set out to prove them. Contrary to her mission, this expert could only find evidence that the Trail existed in the later 1700s. She could not produce any evidence of it being anything other than a logging-farm- maintenance road used by the landowners. In fact, she was not able to find any records of anyone's use of the Trail prior to 1840 and was only able to find that a handful of people used Estabrook Woods for recreational purposes a few times in the 1800s. This entire effort consumed considerable time and resulted in new expenses for the Town and the landowners.

The Town Counsel did not have documentation of any rights to the owners' Trail, and their attempt to demonstrate that the Trail pre-existed records had failed. Town Counsel then restarted with yet a **seventh** approach. In this new approach, the Town essentially admits that there are no records to be found, but the Town argues that since the Trail exists, and there are records that it was a Trail since the late 1700s, that it *must* have been a documented road **but that the records were lost**. The problem with this is that the records of the Town of Concord are the most complete and documented records of almost any Town in the Commonwealth. All of the other old roads in the north of Concord are well-documented in the record. There is simply no evidence that records of the Trail are selectively missing. This is yet one more effort requiring time and cost which the Town Counsel embarked upon and continues to argue.

Knowing the weakness of a claim that the records of any rights to the owners' Trail have been lost, the Town then embarked on yet an **eighth** new approach to claiming the Trail. In this approach they argue that use by unknown people in the 1700s and 1800s created "squatter's rights" which still exist today. To support this claim, they directed their experts to give an opinion that the road was used and maintained as a public way during the late 1700s and

1800s. No such claim for alleged use hundreds of years ago has ever been recognized by a court. Every similar claim in history has been based on current use and the testimony of living users about the nature and frequency of their use, and whether use was permitted. Since there is nobody to testify for use hundreds of years ago, the Town Counsel will claim its experts will represent those users. They will claim recreational use of the woods on a few occasions in the 1800s, by folks like Thoreau, entitles the Town to the owners' land. If Thoreau walking on private land makes it public, then presumably almost all private land in Concord would be public. They will claim the Town maintained the road for travel for hundreds of years, despite Town records that repeatedly mention the Trail was a logging road "little better than ruts through a piece of woodland" and not used or maintained.

In parallel with these continual changes and costs, Town Counsel added *further* cost. Early in the case, the Town recognized it was unwise to sue Harvard University, who had been a responsible, thoughtful steward to the woods and had graciously permitted people to walk on their private trails (there is no public right on Harvard's land). Suing such a benefactor to the Town, *without even talking to them first*, was unpopular and viewed as irrational. It was later established that some members of the Select Board *did not even know* the Town was suing Harvard University when they signed-off on the lawsuit. To solve this problem, the Town reached an agreement with Harvard, in which the Town would commit to certain responsibilities, and Harvard would grant 5-year renewable permission for the use of their part of the Trail (the northern half). *This was virtually the same agreement that the Town had earlier refused to enter with its own taxpaying citizens.* Key provisions included that the Town would no longer seek legal judgement against Harvard and would enforce leash restrictions on dogs. *Despite the Town's agreement, it never fulfilled any of its responsibilities and continued to seek a legal decision against Harvard.* Much later, the court determined that the Town was still seeking judgement against Harvard, **in clear violation of the agreement**, and the judge **ORDERED** Harvard to return to the case. This **ninth** reset of the case was completely due to the failure of Town Counsel to meet its obligations to Harvard, and caused significant new, expensive work and delay in the case.

In a typical lawsuit, even **one** of the kinds of resets described above can double the cost of a case. As noted above, in this case **nine** different major changes and resets to the case have occurred. If the case had been normal, there might be 20-30 documents produced in evidence. In this case, *over 13,000 documents* have been produced. In every instance, the changes and new costs *were completely due to the actions of the Town Counsel.* The private landowners have been forced to spend additional time and money to respond to each of the above changes, simply in reaction to the changes made by Town Counsel.

## The Town Counsel Blames their Cost Overruns on the Landowners

The Town Counsel will not admit to causing any changes or expense, as the Town could have a recovery action against them for their multiple errors. Instead, the Town Counsel has repeatedly attempted to "blame the victim" and complained that all of the additional costs are

due to the defendants. Remember that it is the Town Counsel, not the landowners, that initiated this unprecedented, cruel, exorbitantly expensive legal action.

The Town Counsel has recently claimed that the defendants have “changed the theory of the case.” Note that in litigation making a claim, the “theory of the case” is set by the plaintiff, the Town of Concord. The defendants have, in every twist and turn of the Town’s case, simply been required to respond to the ever-changing theory presented by Town Counsel.

The Town Counsel has complained that it is costly for them to respond to the defenses by the owners, but they fail to disclose that the defendants have necessarily been *forced* to respond to all the changes the Town Counsel has made, most of which the Town Counsel later abandoned.

The Town Counsel has complained that they only budgeted three days for the entire trial, yet the Town itself consumed 3 and ½ days of the trial before the defense was even given an opportunity to present. The defense dropped two witnesses in order to keep the trial from the expense of going on a third week.

The Town Counsel have complained about additional costs due to a preliminary injunction on the Trail during 2020. In April, during the pandemic surge, in response to crowds at their homes driven by internet promotion of their residential property as a “coronavirus getaway destination,” (which was in part due to improper Town announcements) the owners temporary closed a short portion of the Trail at their homes and informed the police and Town Manager of the reasons for having to do so. The use of the Trail, from other entrances, continued at record levels. While the short portion was closed, the owners sought the help of the Town in solutions to control the dangerous problems they were experiencing. Some Select Board members signaled an interest in discussing the problems, agreed there were problems, and solutions were being discussed. However, while these discussions were going on, and without warning, the Town initiated an expensive preliminary injunction suit. The owners were, again, profoundly disappointed that the Town refused to work with them to mitigate the stressful issues. This injunctive action was, again, unnecessary, expensive, and deeply disheartening and injurious.

The Finance Committee has noted that it is not within their jurisdiction to examine or oversee this legal expense. The Finance Committee and the Select Board, however, need to take a closer look at the information they have been provided by Town Counsel in explanation of this unprecedented and consistently underbudgeted legal expense. It is owed to all Concord taxpayers for their Town Government not to abdicate proper fiscal oversight and concede all control to Town Counsel, who, as ample evidence shows, has made years of expensive ill-informed, ill-willed, and extremely expensive mistakes – all the while continuing to blame the citizen defendants for Town Counsel’s own costly mistakes and overruns.

Sincerely,

Neil Rasmussen

