

**TOWN OF CONCORD  
SELECT BOARD MEETING  
MARCH 28, 2022 | 6:30 PM  
TOWN HOUSE  
22 MONUMENT SQUARE**

**MEETING SECOND FLOOR OF TOWN HOUSE AND VIA ZOOM**

<https://us02web.zoom.us/j/84092395810?pwd=TnMyWmprWHBlaz091CczdQM0EvWVVFZz09>

Meeting ID: 840 9239 5810

Passcode: 865209

(revised 3-23-22)

**AGENDA**

#	Time*	Agenda Item
1.	6:30pm	Call to Order
2.		Consent Agenda <ul style="list-style-type: none"> <li>• Town Accountant Warrant: March 17 and March 21, 2022</li> <li>• One Day Liquor Licenses (5):               <ul style="list-style-type: none"> <li>○ Wine &amp; Malt Beverages -- Karl Kussin, Rotary Club Concord Annual Pops Concert, April 8, 2022 at 7pm-10:30pm, Performance Arts Center, 51 Walden Street</li> <li>○ All Alcoholic Beverage – Laura Erickson, Concord Carlisle Community Chest, 75<sup>th</sup> Anniversary Spring Celebration, April 29, 2022, 5:30-11pm, at Nashoba Brooks School, 200 Strawberry Hill Road</li> <li>○ Wine &amp; Malt Beverages -- Corrine Kinsman, Concord Youth Theater, Wine Tasting Event, April 30, 2022 at 7pm-11pm, 53 Church Street</li> <li>○ Wine &amp; Malt Beverages -- Merrill Genoa, Concord Academy, Concord Academy Reunion 2022, June 10, 2022 at 6:45pm-10pm, Private Residence at 166 Main Street</li> <li>○ Wine &amp; Malt Beverages – Merrill Genoa, Concord Academy, Concord Academy Reunion 2022, June 11, 2022 at 6pm-10pm, Private Residence at 166 Main Street</li> <li>○ Wine &amp; Malt Beverages – Military Friends Foundation, The Fenn School, 516 Monument Street, April 16, 2022 from 1pm to 7pm</li> <li>○ Wine &amp; Malt Beverages – Rotary Club of Concord, Performance Arts Center, 51 Walden, April 8, 2022, 7pm to 10:30pm</li> </ul> </li> <li>• Gift Acceptance               <ul style="list-style-type: none"> <li>○ \$700 donation to Natural Resources Division from Edward Perry for First Aid Kits for Trail Stewards</li> <li>○ Boy &amp; Duck Statue to Department of Planning and Land Management from the MA Department of Correction, Milford</li> </ul> </li> <li>• Meeting Minutes: November 22, 2021 executive session (not to be released); December 20, 2021 regular session; January 3, 2022 regular session; February 14, 2022 executive session (not to be released)</li> </ul>

3.		Town Manager's report
4.		Chair's remarks
5.	6:45pm	Meet with Concord Independent Battery and Authorize firing for Patriot's Day, April 18, 2022
6.	7:00pm	250 <sup>th</sup> Update
7.	7:15pm	State Zoning Act -- MBTA Communities Requirement for Multi-family Housing Zoning
8.	7:45pm	Battle Road discussion
9.	8:00pm	Discuss Town Meeting and consent calendar with Moderator, Carmin Reiss
10.		Discussion: Article 23, Kate Kavanaugh, Petitioner
11.		Discussion: Article 37, Joseph Stein, Petitioner
12.	8:30pm	Take Position on Town Meeting Articles #2, 9, 10, 22, 23, 24, 25, 26, 29, 30, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47
13.		Committee Nominations: 1. James Bartlett Littlefield, 523 Bedford Street, to the Board of Registrars 2. Ha Richmond, 144 Nashoba Road, to the Cultural Council
14.		Committee Appointments: 1. Elizabeth Cobbs, 31 Pond View Lane, to the Personnel Board 2. Daniel Drazen, 197 Belknap Street, to the Concord Housing Development Corporation (CHDC) 3. Nancy M. Crowley, 5 Concord Greene #7, to the Public Ceremonies and Celebrations Committee
15.		Miscellaneous Correspondence
16.		Public Comment
17.	9:30pm	Adjourn

*\*Times are approximate and subject to change*

<b>Current Board and Committee Vacancies</b>
Board of Health
Concord 2025 Executive Committee
Concord Housing Development Corporation (CHDC)
Concord Local Cultural Council
Conservation Restriction Stewardship Committee
Council on Aging
Cultural Council
Historic Districts Commission
Library Board
Natural Resources Commission
Personnel Board
Planning Board
Public Ceremonies and Celebrations Committee
Tax Fairness Committee

Trustees of Donations
West Concord Advisory Committee
White Pond Advisory Committee (WPAC)
Zoning Board of Appeals

**Town of Concord  
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December 20, 2021**

Pursuant to a notice duly filed with the Town Clerk, the Concord Select Board convened in a meeting in the Select Board Meeting Room in the Town House and via Zoom on December 20, 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**

Chair Ackerman called the meeting to order at 5:00pm.

**Adjourn to Executive Session**

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to adjourn to Executive Session #1 pursuant to Massachusetts General Laws Chapter 30A, to conduct a strategy session in preparation for contract negotiations with non-union personnel (Interim Town Manager), as the chair declares that an open meeting may have a detrimental effect on the negotiating position of the Town, and Executive Session #2 to consider the purchase, exchange, lease or value of real property (2229 Main Street), as the chair declares that an open meeting may have a detrimental effect on the negotiating position of the Town, to reopen to regular session.

**Consent Agenda**

- Town Accountant Warrant: December 23, 2021
- Gift Acceptance: \$10,000.00 from the Susanna E. Bedell Foundation to the Council on Aging

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve the consent agenda.

**Town Manager's Report**

Mr. Crane reviewed the Town Manger's report attached to the Select Board's Meeting Packet. Mr. Crane praised the Finance Department for their efforts and noted that they had received a Certificate of Achievement for Excellence in Financial Reporting for their work on the Town's Comprehensive Annual Financial Report (CAFR) for fiscal year 2020. Mr. Crane thanked the Board, residents, and his colleagues for their support and work during his time as Town Manager.

**Chair's Remarks**

Chair Ackerman stated that the Board had met in Executive Session and discussed the contract for the Interim Town Manager Kerry LaFleur and that both parties had agreed on terms. Chair Ackerman stated that a vote to approve the terms and compensation plan for Ms. LaFleur was needed.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve the terms and compensation plan for the Interim Town Manager, with

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an initial term of six months, which will continue on mutual agreement and may be terminated with 30 days' notice and with annual compensation \$202,500 with other benefits as already contained within her previous compensation plan.

Chair Ackerman also stated that the Board held a public hearing regarding the Special Town Meeting to be held on February 20 and encouraged residents to view the meeting on YouTube.

Chair Ackerman noted that that evening's meeting was Mr. Crane's last meeting as Town Manager and wished him the best. Chair Ackerman further wished residents a happy holiday season.

**Update from Town Counsel on Opioid Litigation and Possible Vote on Authorizing Town Manager (or Interim Town Manager to Join the Settlement Agreement on Behalf of the Town of Concord**

This item was taken out of order, prior to the Town Managers report and Chair's Remarks. Town Counsel informed the Board that the Massachusetts Attorney General had reached an agreement as part of a settlement regarding the ongoing Opioid Litigation that the Town has been a part of. The Board was informed that the Town may be receiving funds as part of that settlement, but that the amount to be received would not be known until the following week. Town Counsel suggested that the Board authorize the Acting Town Manager to join or sign the settlement agreement on behalf of the Town. Town Counsel added that the funds received could be used for harm prevention, treatment, and recovery efforts.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to authorize the duly appointed Town Manager to enter into a settlement agreement by and between the Massachusetts Attorney General's Office and other parties, on behalf of the Town of Concord, for the purpose of joining the opioid settlement fund.

**Vote on Select Board License Renewals for Calendar Year 2022**

Administrative Manager Christopher Carmody informed the Board that all applicants detailed in the memo he had included as part of the Select Board's meeting packet had provided all necessary paperwork to be approved. He noted that an amended memo had been provided to the Board on December 20, 2021 and requested that the Select Board move to approve the licensees listed in that memo.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve all listed license applications as detailed in the Administrative Manager's memo dated December 20, 2021 and included in the Board packet for this meeting.

**Discuss Concord Middle School Building Project**

Chair Ackerman stated that the Select Board would need to take a position on Article 1 of the 2022 Special Town Meeting.

Town Clerk Kaari Tari stated that a notice would need to be sent out to voters notifying them that

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precincts and voting districts had changed. She stated that she had sent a sample notice to Mr. Carmody that afternoon, and that she was suggesting the Special Town Meeting Warrant Article language and the ballot question language be included in her mailing.

Ms. Tari also noted that the mailing would include links to the Special Town Meeting web page and Middle School Building Committee web page.

The Board discussed the amount to be included in their recommendation and agreed that the amount suggested by the Finance Committee and Middle School building committee be included in the motion.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to recommend affirmative action on Article 1 of the 2022 Special Town Meeting Warrant in the amount of \$102,816,000.

**FY23 Budget Request—Initial Presentation**

Mr. Crane stated that he would ask Ms. LaFleur to present to the Board and thanked the Finance Committee Guidelines Subcommittee for their input in the Town’s budget process, specifically their updated guidelines.

Ms. LaFleur reviewed the Town’s initial response to the Finance Committees guidelines process and the Fiscal Year 2023 Budget Request—Initial Presentation, included in the Select Board’s Meeting Packet.

The Board, Ms. LaFleur, and Mr. Crane discussed the presentation, and highlighted several budget, human resources, employee retention, and capital project issues facing the Town in the coming Fiscal Year. The group also discussed the need to continue to fund Diversity, Equity, and Inclusion efforts in all aspects of the Town.

**Meet with Personnel Study Task Force to Amend Charge**

Ruth Lauer and Anne Rarich, co-chairs of the Personnel Study Task Force, discussed their desire to amend the charge of the Personnel Study Task Force. Chair Ackerman stated that she and Ms. Bates, liaison to the Personnel Study Task Force, had met with Ms. Lauer and Ms. Rarich, to review the proposed changes to their charge.

Ms. Lauer reviewed the proposed changes, which were attached to the Select Board’s meeting packet. Ms. Lauer proposed to add: “In accomplishing the goals above, the Task Force will keep in mind that the Town’s Personnel System seeks to be:” to the beginning of Section D.3. of the Personnel Study Task Force charge. Ms. Lauer and Ms. Rarich stated that the language proposed was supported unanimously by the Personnel Study Task Force.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve the amended charge of the Personnel Study Task Force charge as amended verbally this evening through Ms. Lauer’s statement.

Ms. Lauer also asked the Select Board to coordinate cooperation with various Departments to

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provide them with information as they need it to carry out their charge. Chair Ackerman stated that the Board had discussed this, and she would be following up with Interim Town Manager Kerry Lafleur regarding her concern. Mr. Crane stated that Town staff who interface with Boards and Committees all want to provide the information required by Boards and Committees, but that those needs would need to be balanced with their daily duties. He also noted the need for Boards and Committees to request specific information, for the sake of efficiency.

**Committee Nominations**

Frank G. Feeley of 347 Lexington Road to the Concord Municipal Affordable Housing Trust for a two-year term set to expire April 30, 2023

**Committee Appointments**

Upon a motion duly made and seconded, it was UNANIMOUSLY  
**VOTED:** to appoint Ray Bruttomesso of 1001 Main Street to the 2229 Main Street Advisory Committee for a term set to expire on April 30, 2024

**Miscellaneous Correspondence**

Chair Ackerman stated there was Miscellaneous Correspondence attached to the Select Board's Meeting packet.

Mr. Johnson stated that he regretted if any members of the Board, or the public, mistook a statement made during a discussion regarding the potential selection of an Interim Town Manager, and that Ms. Kate Hodges had served as Interim Town Manager in the past. He noted that his statement was meant to convey that Ms. Hodges had stated that she would not be applying for the permanent Town Manager position but would have served as Interim Town Manager if called upon by the Town.

**Public Comment**

Laura Levan, of 58 Nimrod Drive, asked the Board to put in place a vaccine mandate to use the pool at the Beede Center. Ms. Levan stated that the Board of Health had submitted a letter to the Select Board seeking the same. Ms. Levan also shared concerns that she was not able to find the email addresses for the Select Board to contact them on the Town's website. The Board stated that they would try to address Ms. Levan's concerns.

Ned Perry, of 362 Bedford Street, stated his belief that had the Personnel Board and Town Manager had performed their jobs as required, many of the issues discussed during the Budget Request agenda items would have already been addressed. Mr. Perry also shared concerns that some Boards and Committees were given access to information and staff while others were not. Mr. Perry stated that would like more transparency regarding Board and Committee access and thanked the Select Board for their work regarding the charge of the Personnel Study Task Force.

Mary Hartmann, of 16 Concord Greene and member of the Finance Committee, stated that many of the Tier 2 spending projects put on hold were done so because the Recreation Department had several projects funded.

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Adjournment**

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

**Meeting Materials:** <https://www.concordma.gov/DocumentCenter/View/33621/December-20-2021-Select-Board-packet-final-v4>

**Minuteman Media Network Coverage:**

<https://www.youtube.com/watch?v=0REjSdzkV58&list=PL1TTzrWEKOOkHKXNLQprEz0f0ofHYKj8-&index=3>

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January 3, 2022**

Pursuant to a notice duly filed with the Town Clerk, the Concord Select Board convened in a meeting via Zoom on January 3, 2021, at 6:30pm.

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

**Call to Order**

Chair Ackerman called the meeting to order at 6:30 p.m.

**Consent Agenda**

- Town Accountant Warrant: January 6, 2022
- Gift Acceptance: Donation by John Fiske of \$14,000.00 to the Council on Aging
- Minutes: October 25, 2021; November 8, 2021; November 15, 2021

Mr. Dane requested an amendment to the minutes of November 8, 2021 to clarify that the Select Board's rationale for specifying a "not to exceed" number on its Special Town Meeting motion.

Ms. Bates also requested that the spelling of Richard Galper's name be corrected in the same set of minutes.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve the consent agenda with exception of the Town Accountant Warrant of January 6, 2022 and with two amendments to the minutes of November 8, 2021.

**Swearing in of Interim Town Manager, Kerry LaFleur**

Kaari Tari, the Town Clerk, swore in Kerry LaFleur to serve as the Town of Concord's Interim Town Manager.

**Town Manager's Report**

Ms. Lafleur reviewed the Town Manager's report. Ms. Lafleur explained the Town's recent efforts to combat the COVID-19 pandemic, including a recent mask mandate that had been issued. Ms. Lafleur also discussed COVID-19 protocols for the upcoming Special Town Meeting.

**Chair's Remarks**

Chair Ackerman welcomed Ms. Lafleur as the Interim Town Manager. Chair Ackerman also stated that Select Board meetings would be held by Zoom until further notice, noting a surge in COVID-19 cases across the state. Next, Chair Ackerman reviewed the upcoming Select Board meeting dates, reminded the Board and public of the Special Town Meeting on January 20, 2022. Finally, in reference to the construction taking place at White Pond, she asked citizens to respect the site and fenced off area.

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**Update from Concord Municipal Affordable Housing Trust:**

Keith Bergman, of 56 White Avenue and Chair of the Concord Municipal Affordable Housing Trust, stated that he was there to ask the Board for their approval of two items.

**1) Vote on CHDC request to decommit \$570,000 for 100 Elm Brook**

Mr. Bergman asked the Board to decommit \$570,000 in funds that the Board had previously committed for the purchase of a condominium because the current owner had decided not to sell the unit.

Chair Ackerman asked if the funds would be returned to the Affordable Housing Trust. Elizabeth Rust, the Director of the Regional Housing Services Office (RHSO), stated that the Board had transferred approximately \$1,200,000 to the Trust, and that they were seeking a release of the commitment of the funds.

Mr. Johnson asked if the vote in June was to release the funds from Free Cash at that time. Ms. Lafleur stated that Town Meeting had appropriated the funds for Affordable Housing.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to rescind the Select Board's June 1, 2021 vote to commit \$570,000 to buy down a unit located at 100 Elm Brooke and return the \$570,000 commitment to the Municipal Affordable Housing Trust.

**2) Review request to designate \$500,000 of free cash to affordable housing**

Mr. Bergman stated that the Concord Municipal Affordable Housing Trust Fund Board had discussed proposing an article at the Annual Town Meeting in 2022. He noted that the Select Board had previously put forward articles at past Town Meetings on behalf of the Trust and requested that they do the same for the 2022 Annual Town Meeting. Mr. Bergman stated that the Trust understood that Free Cash may not always be the best funding source of the Trust, and that the home rule petitions that had been filed had not yet been taken up by the State Legislature, but that the Trust would like to have a larger discussion with the Select Board to determine some of the best funding sources for the Trust.

Ms. Lafleur reviewed the Fiscal Year 2023 budget and potential ways to fund the Trust.

**3) Review CMAHT support for Upland Road/Old Marlboro Road land acquisition project**

Mr. Bergman reviewed the Upland Road land acquisition project and stated that the Trust had met with the Concord Housing Development Corporation and were focusing on developing five affordable housing units. Mr. Bergman stated that a \$140,000 deposit would be required to move the project forward, and that the Trust would be funding \$50,000 of that sum. Ms. Rust noted that Marcia Rasmussen and Delia Kaye had prepared a plan for the development.

The Board discussed the potential development with Ms. Rust, who was encouraged by the possibility of creating five new units of affordable housing. They asked about the mix of owner and residential units and the refundability of the deposit. Ms. Rust said that the existing duplex would be rented, but that no decision had been made yet on the other units. She also described

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the conditions under which the deposit could be returned.

Mr. Johnson expressed concern that the project was creating fewer units of affordable housing than could be built by right in a commercial residential development. Mr. Dane added his concern that the cost for the land could yield a prohibitive cost per affordable unit.

Marcia Rasmussen, the Town's Director of Planning, stated that the proposed project was like other affordable housing developments in Town. There are a number of potential development alternatives, including Habitat for Humanity, with lower construction costs than were projected for the unit that had been recently proposed at the Gerow site on Commonwealth Ave.

Diane Proctor, Chair of the Community Preservation Committee, spoke on her own behalf to clarify how the Community Preservation Act funding for the project would be presented at Annual Town Meeting.

**4) Discuss CMAHT Trust Guidelines**

Mr. Bergman stated that the Trust had been working on written guidelines for the Trust, which would be subject to the Select Board's approval. Mr. Bergman stated that the guidelines the Trust would present would be updated following the completion of the Housing Production Plan. Ms. Rasmussen added that a consultant had been retained, and that the RHSO had also been engaged to work on the Housing Production Plan. A draft charge for the Housing Production Plan Steering Committee will be presented to the Board in the coming weeks.

**Review Finance Department Plans**

Ms. Lafleur reviewed the memo included as part of the Select Board's meeting packet. She stated that she would like to split the role of Finance Director into two positions: Interim Finance Director and Interim Treasurer-Collector. Ms. Lafleur requested that the Select Board appoint Colleen Rhinart, the Acting Treasurer-Collector, as Interim Treasurer-Collector at their meeting on January 24, 2022. Ms. Lafleur further added that the position of Interim Finance Director had been advertised extensively and was open until filled. Ms. From the period of January 1-24, 2022, she had appointed Jon Harris as Acting Finance Director. Mr. Harris is currently the Town's Budget and Purchasing Director. Additionally, Ms. Lafleur stated that the Town was reviewing how to proceed with filling the position of Principal Assessor, noting that the Town had retained an Interim Assessor since the departure of Lane Partridge in October.

**Discuss Committee/Citizen Requests and SMT Input**

Chair Ackerman stated that she and Mr. Johnson had met with members of the Senior Management Team earlier in the day to discuss Committee/Citizen Requests and for the Senior Management Team to provide input.

Ms. Lafleur reviewed a spreadsheet, which was included in the Select Board's meeting packet. Ms. Lafleur highlighted what she believed were the four major areas of focus discussed at the meeting. They were Select Board/Staff Communications, Boards & Committees/Staff Liaison, Boards & Committees/Staff (where no liaison has been assigned), and Residents/Staff.

Chair Ackerman reviewed a document that she and Mr. Johnson had compiled with their

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thoughts on the meeting with the Senior Management Team, which was included in the Select Board's meeting packet. Both Chair Ackerman and Mr. Johnson called on residents, board/committee members, Select Board members, and Town staff to maintain civil discourse when conducting Town business. Additionally, Chair Ackerman and Mr. Johnson discussed the possible development of a Code of Conduct. Chair Ackerman thanked Ms. Lafleur and the Senior Management Team for taking the time to discuss this matter with the Select Board and hoped to hold another meeting with them in the future.

**Review of Select Board Goals Accomplished in FY22**

The Board reviewed the 2021-2022 Select Board Goals, which was included in the Select Board meeting packet. The Board reviewed the progress that they had made on the items included in the document, and highlighted areas that they should continue to make progress on in the future.

**Vote on Additional Select Board License Renewals for Calendar Year 2022**

Chair Ackerman stated that while most licenses had been granted at the Select Board meeting on December 20, 2021, there were some applicants that had not submitted all necessary paperwork in time for consideration at that meeting. Christopher Carmody, Administrative Manager in the Town Managers Office, informed the Board that all applicants listed in the Select Board's meeting packet had submitted all the necessary documents to be considered for a license.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** to approve all listed license applications as detailed in the Administrative Manager's memo dated December 31, 2021 and included in the Board packet for this meeting.

**Discuss Possible Annual Town Meeting Articles**

Ms. Lafleur reviewed a memo included in the Select Board's meeting packet, dated December 30, 2021, regarding Potential Annual Town Meeting Articles. Ms. Lafleur explained that the first article, if approved, would allow the Town to hire an Investment Advisor to aid the Treasurer-Collector in the management of the OPEB Trust fund, which had a balance of approximately \$33,600,000.

Ms. Lafleur reviewed the possible second Warrant Article detailed in her memo to the Board, the establishment of an Electrification Fund. Ms. Lafleur explained that the Town had been approached by a resident who would like to make a sizable donation to the Town to aid in the electrification of the Town's fleet. Ms. Lafleur explained the benefits of setting up a trust fund for the purpose of helping the Town sustain its sustainability initiatives, and that it would be both beneficial to the Town and residents who also wished to donate to this fund in the future.

Chair Ackerman asked the Board if they would be interested in submitting a warrant article that would allow the Town to include explanatory information on a ballot during future debt exclusion votes. Ms. Lafleur provided further clarification, noting that it would allow the Town to provide more information on future ballots. The Board voiced support for including a warrant article like the one Chair Ackerman described.

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Mr. Johnson proposed discussing free cash appropriations at the preview meeting on January 8, 2022, as a possible warrant article. Mr. Johnson cited the discussion regarding Affordable Housing as a possible reason to take up the issue as a warrant article.

**Vote to Authorize MWPAT Interim Note Loan**

Ms. Lafleur recalled the vote the Board made in September which authorized the submission of a loan application to the Massachusetts Clean Water Trust (MWPAT) seeking \$512,337 which would be used to finance septic systems for Concord residents, who otherwise may not be able to afford to install them. Ms. Lafleur stated that the loan from the MWPAT would be a 0% interest loan.

Upon a motion duly made and seconded, it was UNANIMOUSLY

**VOTED:** (1) That the Town shall issue a bond or bonds in an aggregate principal amount not to exceed \$512,337 (the “Bonds”) pursuant to Chapters 29C and 111 of the General Laws and a vote of the Town passed April 29, 2009 (Article 42), which authorized a total borrowing of \$2,000,000, for a community septic management loan program (the “Project”); and (2) That in anticipation of the issuance of the Bonds the Treasurer is authorized to issue an interim loan note or notes (the “Notes”) from time to time in an aggregate principal amount not to exceed \$512,337; and (3) that each Bond or Note shall be issued as a single registered security, and sold to the Massachusetts Clean Water Trust (the “Trust”) at a price determined pursuant to the Financing Agreement; and (4) that the Treasurer is authorized to determine the date, the form, the maximum interest rate and the principal maturities of each Bond and Note, and to execute a Financing Agreement or Agreements with the Trust with respect to the sale of the Bonds or Notes to approved by a majority of the members of the Select Board and the Treasurer and evidenced by their execution of the Bonds or Notes; and (5) that any certificates or documents relating to each Bond and Note (collectively, the “Documents”), may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document; delivery of an executed counterpart of a signature page to a Document by electronic mail in a “.pdf” file or by other electronic transmission shall be as effective as delivery of a manually executed counterpart signature page to such Document; and electronic signatures on any of the Documents shall be deemed original signatures for the purposes of the Documents and all matters relating thereto, having the same legal effect as original signatures; and (6) that all action taken to date by the Town and its officers and agents to carry out the Project and its financing, including the execution of any loan agreement by the Treasurer, are hereby ratified, approved and confirmed; and (7) that the Treasurer and the other appropriate Town officials are each hereby authorized to take any and all actions necessary or convenient to carry out the provisions of this vote, including execution and delivery of the Financing Agreement or Agreements and the Project Approval Certificate and Regulatory Agreement or Agreements relating to the Project.

**Select Board Member Liaison Reports**

Ms. Bates reported that she had attended the Personnel Board meeting and that they had discussed several potential Town Meeting warrant articles they were considering submitting to

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Town Meeting. Ms. Bates also reported on her attendance of a Personnel Study Task Force meeting.

Ms. Escobedo reported that she had attended a recent Planning Board meeting where they discussed several potential warrant articles they were considering submitting to Town Meeting.

Mr. Dane reported that he had attended a recent Board of Health meeting where a mask mandate was discussed and adopted. Mr. Dane also reported on the Library Committee, and the recent hiring of a new Library Director. Mr. Dane also attended and reported on the Civil War Monument Task Force.

Mr. Johnson reported that the Climate Action Advisory Board elected a new chair, and the Municipal Light Board held their rate hearing.

Chair Ackerman reported on the Hugh Cargill Trust Committee and the School Committee.

**Committee Nominations**

There were none.

**Committee Appointments**

Upon a motion duly made and seconded, it was UNANIMOUSLY  
**VOTED:** to appoint Frank G. Feeley of 347 Lexington Road to the Concord Municipal Affordable Housing Trust for a two year term set to expire April 30, 2023

**Miscellaneous Correspondence**

Chair Ackerman stated that there was none.

**Public Comment**

Karlen Reed, of 83 Whits End Road, voiced her support of the potential OPEB Trust Fund warrant article discussed by the Board and Ms. Lafleur. Ms. Reed also recommended that, should the article be approved, any advisor make periodic updates on the performance of the Trust Fund.

Diane Proctor, of 57 Sudbury Road, stated that on January 6, 2022, there would be a standout to celebrate democracy, where Senators Barrett and Eldridge would be speaking. Ms. Proctor also informed the Board that the League of Women Voters would be hosting Town Clerk Kaari Tari to explain the changes to voting districts and precincts to better inform the public on how and where to vote on Friday, January 7, 2022.

Pamela Dritt, of 13 Concord Greene, asked the Board if a rule existed that would prohibit the Town from investing in fossil fuels with Town funds and investments. Ms. Lafleur stated that the Town did adhere to such a principal. Ms. Dritt voiced concerns over the Envision Concord plan and its lack of sustainability measures. Ms. Dritt also asked how a resident could bring a warrant article to Town Meeting. Ms. Escobedo recommended Ms. Dritt reach out to the Town

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Moderator, Carmin Reiss.

**Adjournment**

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

**Meeting Materials:** <https://concordma.gov/DocumentCenter/View/34094/January-3-2022-Select-Board-Packet-v2>

**Minuteman Media Network Coverage:**

<https://www.youtube.com/watch?v=mltr30miINA&list=PL1TTzrWEKOOkHKXNLQprEz0f0ofHYKj8-&index=7>



**TOWN OF CONCORD**  
**DIVISION OF NATURAL RESOURCES**  
**141 KEYES ROAD, CONCORD, MA 01742**  
**TEL: (978) 318-3285 FAX: (978) 318-3291**

To: Kerry Lafleur, Interim Town Manager  
Via: Malysa Simard, Finance Assistant  
cc: Marcia Rasmussen, DPLM Director  
From: Delia Kaye, Natural Resources Director *DK*  
Re: Gift Acceptance  
Date: March 14, 2022

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The Natural Resources Division has received a generous donation of \$700 from Edward Perry to purchase first aid kits for trail stewards and staff to use while maintaining Town trails.

In accordance with MGL Chapter 44, Section 53A and APP #19, I am submitting the check for deposit and respectfully request that acceptance of the check be placed on an upcoming Select Board meeting agenda. Please also deposit the check into gift account #0023-180-171-0634-4850-0.

Thank you for your time and attention.

362 BEDFORD STREET  
CONCORD, MASSACHUSETTS 01742

March 2, 2022

Delia Kaye, Director  
Natural Resources Division  
Town of Concord  
141 Keyes Road  
Concord, MA 01742

Re: First Aid Kits for Natural Resources Division

Dear Delia:

Thank you for having Will Holden research first aid kits for chainsaw stewards to have with them while doing their work on our Town trails. In thinking about your email enquiring about my interest in contributing to the cost of the kits for the stewards, I also thought about the safety of your Town staff as they are working on our trails.

Enclosed is a check for \$700.00 made out to the Town of Concord with the notation in the memo section suggesting that the funds be used within the Natural Resources Division for first aid kits for Town staff as well as our chainsaw stewards. Please feel free to use the funds as you deem best for the safety of individuals working on our Town trails and public lands.

The Concord-Carlisle Community Chest has done a needs assessment of our community which produced a number of findings, including that one of the highest areas of need is Mental Health (see Needs Assessment summary enclosed). Our community mental health would be much worse if we had not had all of our public lands and trails to walk on during the last two years.

Thank you for all you and your staff do for our natural environment within the Town of Concord.

Very truly yours,



Edward N. Perry

Enclosures



MEMORANDUM  
Town of Concord  
Department of Planning and Land Management

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To: Kerry LaFleur, Interim Town Manager  
Cc: Select Board, Marcia Rasmussen  
From: Heather Gill, Senior Planner  
Date: March 3, 2022  
Re: Gift/Donation to the Town – “Boy and Duck” Statue

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In late February 2022, the Planning Department was contacted by Giovanni G. Cáceres, Construction Coordinator III for the MA Department of Correction, to see if the Planning Department would be interested in acquiring the small “Boy and Duck” statue that they have in storage at the DOC’s headquarters in Milford.

Mr. Cáceres indicated that this is a replica/spare of the actual one sitting on top of the historic fountain located in front of the Concord Reformatory on Route 2. Mr. Cáceres stated that the contractor who restored the fountain in 2016 casted an additional statue for no additional cost and therefore there is no estimated value.

At the 2015 Annual Town Meeting, \$60,680 was allocated to the Massachusetts Department of Corrections for the MCI Fountain Restoration. CPA funds were to be used to complete the restoration and reinstallation of the ca. 1870s cast iron, tiered fountain located in front of the original Reformatory building on Route 2. The CPC reviewed the final materials submitted as part of the MCI Concord Historic Fountain Restoration in March 2017 and voted to consider this CPA funded project complete and the file closed.

I spoke with Marcia Rasmussen, who indicated that the Planning Division would happily accept the donation and display the statue somewhere in the building at 141 Keyes Road.

Please let me know if the Select Board requires any further information in order to accept this gift.



The size of the statue is approx. 18” H x 14” W.



# TOWN OF CONCORD

Office of the Town Manager

## Operational Status Reports & Departmental Updates

For the Period Ending March 18, 2022

### Town Manager & General Government

#### Sustainability

- The new statewide Operational Services Division contract supports Concord's Sustainable Fleet Policy or "electric first" vehicle purchase policy. For example, all light-duty vehicles on the statewide contract are required to be "hybrid or more electric" and electric options for other vehicle types are available. The new contract will replace the old statewide contract with a more streamlined approach. The benefits of using the statewide contract include efficiency (quotes for base vehicles are already available) and customized vehicles have a fixed profit margin to ensure a fair price. For more information, view the attached powerpoint and watch this recent webinar- [link to the recording](#)
- The Sustainability Division and Concord Sustainable Energy Committee are hosting a speaker series beginning at the end of April, see the poster here and make sure to join!

**Cooler Concord Sustainability Series**

- 4/27 Keynote Address: Climate Change Risk & Opportunities by MIT Climate Scientist Dr. Kerry Emanuel  
*cohosted with the CCHS Sunrise Hub*
- 4/29 Arbor Day Celebration and Seedling Giveaway  
*cohosted with the Garden Club of Concord*
- 4/30 Cooler Concord Climate Festival  
*cohosted with the CCHS Green Team & Mothers Out Front*
- 5/11 Heating & Cooling with Heat Pumps Forum
- 5/25 Your Sustainable Home Now! Workshop
- 6/4 EV Display and Charging Tips Open House  
*cohosted with the EV Working Group*

View Event Details and RSVP:  
[coolerconcord.org/events](https://coolerconcord.org/events)

Series Hosts:

- Comprehensive Sustainability and Energy Committee (CSEC)
- Concord Municipal Light Plant (CMLP)
- Concord Sustainability Division

#### Facilities

- The facilities team was busy at work this week. Several notable projects included installing a Tesla charger at the Police Station and beginning HVAC for two new offices at the Hunt Gym.

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## Emergency Services

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### **Police Department:**

- 775 Log entries which included 116 Traffic enforcement/Motor vehicle stops
- Leah Olansky successfully completed her Field Training program, and has been assigned to a patrol team.
- The department was assessed by a team from The Massachusetts police Accreditation Commission last week, and will forward the results of its assessment to the Commission for final approval of accreditation for the department.

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## Public Works

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- On Tuesday evening, March 14<sup>th</sup>, CPW staff provided the First Parish Church's Environmental Team a virtual presentation on solid waste, recycling and a recent food waste composting pilot. The presentation was followed by a conversation relating to current programs and future needs and interests expressed by this highly engaged group.

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## Department of Planning & Land Management

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### **Economic Vitality & Tourism**

- **Spring has sprung in Concord** and the first tour busses and visitors have been stopping by daily. The Economic Vitality & Tourism Manager has been greeting tour bus drivers and welcoming guests. Many are shopping at both the Visitor Center and local retailers.
- **Tour of Duty:** A surge of Military Tour requests have come in from Military personnel in the area including Marines stationed at Devens and a group of Military Inspectors in Concord for a conference. Military Tours have become a popular request lately and the Visitor Center Tour guides have graciously embraced it.
- **Support for the MMNHP:** Visitor Center staff will be working at the North Bridge Visitor Center April 18<sup>th</sup> and 19<sup>th</sup> and then beginning May 7<sup>th</sup>, will be working every Monday and Tuesday through the fall.

### **Natural Resources Division**

- **Conservation Land Improvements:** This week, Will and Delia worked with steward Bouke Noordij to install four new bluebird boxes at Heywood Meadow. Bouke constructed eight bird boxes using locally sourced reclaimed cedar following Mass Audubon's bluebird nest box standards. Two additional boxes will be installed at Heywood Meadow after the nesting season and the remaining two will be installed at a to-be-determined property. A pair of blue birds was observed investigating the new boxes just minutes after installation.



Additionally, Will and two volunteers conducted parking lot maintenance at Barrett's Mill Conservation land by regrading the parking area surface, which is

seasonally wet during a few weeks in the spring. The parking area is closed temporarily and will re-open once weather, and soil, conditions allow.

### **Health Division**

- **Board of Health meeting of March 16<sup>th</sup>:** The Board commented on the good news in the report from the Tobacco Control Compliance Officer (TCCO) who completed a round of 14 Concord establishments that sell tobacco last week. The TCCO reported that there had been ZERO sales to minors – the first town of their round of 2022 compliance checks to obtain 100% compliance.

### **Planning Division**

- **Community Preservation Committee meeting of March 15<sup>th</sup>:** The CPC met last night to review the first draft of the preservation restriction for Wright Tavern. This restriction will need to be reviewed and approved by the Historical Commission and the Community Preservation Committee prior to Town Meeting, as a condition of funding. After Town Meeting the Wright Tavern folks will need to follow thru on the rest of the process for recording the restriction, which will include Town Counsel review and approval by the Massachusetts Historical Commission.
- **Bruce Freeman Rail Trail Advisory Committee meetings:** The BFRTAC Subcommittee will be meeting Wednesday night to prepare for the regular meeting scheduled for March 17<sup>th</sup>. The Subcommittee will be discussing seven different design options (one short term and six longer term) to address perceived safety issues between trail users and pedestrians and next steps in planning for the next public forum.

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## Human Services

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### **Senior Services:**

- Nearly 200 seniors braved the rain and participated in the Concord Carlisle High School St. Patrick's Day Lunch drive through giveaway this past Saturday. The students also delivered many meals to seniors who were homebound and unable to get to the high school for pick up. The COA truly appreciates this generous annual offering.
- Harvey's Treasure Chest is in need of donations. Residents who are cleaning out are encouraged to consider dropping off decorative items for the home, jewelry, and small, gently used things suitable to be given as gifts. All proceeds from the shop go directly to support the many programs and activities offered by the COA.
- We currently have a waiting list of 18 seniors looking for refurbished computers. If you have a computer (desk top or lap top) that is less than 10 years old that you no longer need, consider donating it to the COA. It will be clean up and refurbished and given to a senior in our community who needs it.
- The Pharmacist will be at the COA on Wednesday, March 23<sup>rd</sup> from 9:30-11:30. Consultations are available by appointment and are free of charge.
- The next podiatry Clinic will be on Monday, April 11<sup>th</sup>. Now taking appointments. Charge is \$35.
- Tax preparation assistance is continuing at the COA with the help of trained AARP Foundation volunteers. This is a free service, please call for an appointment.
- Ping Pong is going strong on Wednesdays from 2:00-4:00pm. Come on down and play!

### **Recreation/Beede Center:**

- A Rideout Informational Planning Meeting will be held on 3/30 to discuss the addition of temporary amenities, facilitated by CCYB. The meeting will be held in person at 22 Monument Square and virtually over zoom.
- Recreation Supervisors at the Tri State Camp Conference this week
- With spring beginning we are excited to start outdoor tennis programs next week

**Public Information/PEG Services:**

- MMN is working on video and audio replacement planning and re-designing for several buildings in Concord and Carlisle to ensure technology is ready to integrate in with current needs and remains in good working condition.
- MMN is working Assisting with documentation on assisted hearing devices located at the town house.
- Adding a permanent wire for the Zoom monitor used in the Select Board Room at the town house.

It has come to our attention that some people are continuing to harass town staff and contractors as they go about their duties at White Pond. Others are vandalizing trees on private property in Estabrook Woods. Still others are shooting pellet guns at other people.

Civility means we sometimes have to agree to disagree. For example, we certainly understand that not everyone agrees with every aspect of the White Pond project. However, Town Meeting voted at least twice to engage in the project and to fund it.

There is never any excuse for personal attacks, nor is there any value in doing so. To be frank, these behaviors benefit no one, but they are an embarrassment and a hazard to the entire Town of Concord.

Concord prides itself on civil discourse. Ongoing debate and peaceful protests are an important part of that process, but trespassing, vandalism, and personal attacks will not be tolerated. These actions are subject to prosecution, and they have been referred to the Concord Police Department.

I hope you will join me in deploring these behaviors. If you see someone acting inappropriately, please don't hesitate to speak up. Call 911 if necessary. We all need to act to ensure that the unfortunate actions of a few don't compromise the civility, character, and safety of our town.

Sincerely,

Terri Ackerman, Chair  
Concord Select Board



Concord, Massachusetts 01742

March 21, 2022

Town of Concord  
22 Monument Square  
PO Box 535  
Concord, MA 01742  
Attn: Kerry Lafleur, Interim Town Manager

Re: Application for Permission to Fire the Town of Concord Cannons at the 2022 Town Celebrations and Ceremonies on the following dates:

- April 9<sup>th</sup>, 9 AM – Battery Test Fire, Old Manse Field
- April 9<sup>th</sup>, 1 PM - Meriam's Corner exercises
- April 18<sup>th</sup> 9 AM – Patriots Day Parade
- April 19<sup>th</sup> 6 AM - Dawn Salute, Old Manse Field
- May 30<sup>th</sup> - Memorial Day – 9AM – Rideout Field, 11AM – Monument Sq.
- Nov 11<sup>th</sup> – Veterans Day – 8AM -Sleepy Hollow Cemetery
- June 17<sup>th</sup> – USS Constitution Underway – Boston Harbor – Invitation attached

Dear Kerry,

As is the process for the Concord Independent Battery, I am writing to you per the terms of the contract between the Town and the Battery to request the Select Board permission to fire the Towns Cannon at the various events for 2022 and to approve the Concord Independent Battery's participation at the USS Constitution's Underway event at Ft Independence, Boston Harbor on June 17, 2022 .

As in the past, we will reach out to you for additional requests (when & if they come).



Concord, Massachusetts 01742

Enclosed with this request to fire the cannon are the documents as required by the contract.

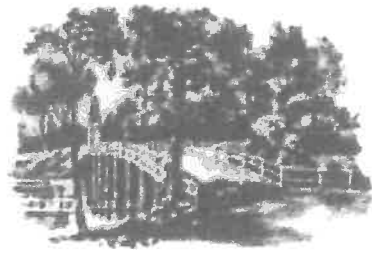
1. Master Training records for Active Battery Members from 1 April 2021 through March 20, 2022. (will have 3 additional training sessions by March 30)
2. Copy of the Certificate of Liability Insurance showing the coverage for the Town of Concord and the Concord Independent Battery.
3. Concord Public Ceremonies and Celebrations Committee calendar to fire at the Town's 2022 events (taken from the PCCC web page (3/18/22)).
4. Copies of the Commonwealth of Massachusetts canon Firing Permits issued by the Town of Concord Fire Department & Fire Officials Contacts & DCR Permit
5. Copies of the signed Alcoholic Beverage and Controlled Substance Abstinence Agreements signed by each of the Active Battery Members and listed on the Master Training Record.
6. Listing of Active Battery Members with current Cannon Licenses issued by the Department of Public Safety.
7. Copy of the Borescope Inspections performed on 11 March 2021.
8. Listing of the current Indemnity agreements.
9. Flyer requesting our participation with the USS Constitution Underway at Ft Independence, Boston Harbor on June 17<sup>th</sup>.

Give me a call or drop me an email if there are any questions.

Thank you and best regards,

Philip Kenney  
President, Concord Independent Battery  
[pkenney21@gmail.com](mailto:pkenney21@gmail.com)

cc: Peter Myette – Captain, CIB  
John Thompson – Secretary, CIB  
Robyn LaFrance – Sr. Admin Assistant to the Town Manager, Town of Concord



TOWN OF CONCORD

INCORPORATED 1735  
100 STATE STREET, CONCORD, MA 01742  
(978) 365-8000

## ***Public Ceremonies and Celebrations Committee***

### **2021-2022 Calendar of Events**

**Veterans Day Flag Retirement at Sleepy Hollow Cemetery**  
Thursday, November 11, 2021 at 8:00 am

**Concord Tree Lighting at Monument Square**  
Sunday, December 5, 2021 3:00 – 5:00 p.m.

**Honored Citizen Ceremony at Harvey Wheeler Center**  
Sunday, May 1, 2022 at 2:30 p.m.

**Meriam's Corner Parade/Exercise**  
Saturday, April 9, 2022 at 1:00 p.m.

**Patriots Day**  
Monday, April 18, 2022 at 9:00 a.m.

**Dawn Salute at Buttrick Hillside**  
Tuesday, April 19, 2022 at 6:00 a.m.

**Memorial Day**  
Monday, May 30, 2022  
9:00 a.m. – at Rideout Field and Kenny Dunn Square  
11:00 a.m. – at Monument Square

***Active Committee Members***

**Subject:** FW: Patriot's Events

**The Town of Concord is pleased to bring back in-person events to celebrate this year!**

**Patriots' Day 2022 Tentative Event Schedule**

<https://www.nps.gov/mima/planyourvisit/special-event.htm>

Patriots' Day this year is Monday, April 18th. There will be events April 16th - 19th as well as a few smaller events the week prior on April 9th.

**Saturday, April 9th**

**Meriam's Corner Exercise**

**Meriam's Corner, Concord (24 Old Bedford Road)**

**1:00 p.m.**

The Town of Concord, joined by local fife and drum ensembles, minute men and the Concord Independent Battery commemorate the fighting that occurred at Meriam's Corner in Concord on April 19, 1775 that marked the start of the running battle back to Boston.

**Paul Revere Capture Ceremony Paul Revere Capture Site, Lincoln**

**3:00 p.m.**

The Lincoln Minute Men, joined by other reenactment units, observe the historic capture of Paul Revere with fife and drum music, a theatrical performance and a musket fire salute.

**Saturday, April 16th - Battle Road**

**Explore the Elm Brook Hill (Bloody Angle) Battle Site with Edmund Foster**

**Meet at Hartwell Tavern**

**10:30 a.m.**

Edmund Foster, a militiaman from Reading Massachusetts (portrayed by park volunteer, Ed Hurley) will lead a tour to this key battle site where he fought on April 19, 1775. He will be joined by Lincoln historian and author Don Hafner.

**Caught in the Storm of War: The Civilian Experience of April 19, 1775**

**Meet at Hartwell Tavern**

**10:45 a.m. – 12:45 p.m.**

If you had to leave your home in a hurry, uncertain of your return, what would you take with you? Learn about the local civilians on April 19, 1775 who struggled to save their families and belongings from the path of war. Meet living history volunteers at the Hartwell Tavern and the Captain William Smith House portraying Colonial civilians. Starting at 11:45 am, with the sounds of battle approaching, they will hastily close up the house and head off down the road. We invite you to join them and be a part of the scenario! Interact with the reenactors and learn the stories of ordinary women and men whose lives were suddenly upended by war.

Please note: The civilian evacuation scenario will begin at the Hartwell Tavern at 11:45 a.m. and end near the Parker's Revenge Site, a distance of nearly 2 miles. There you will be directed to the viewing area to see the tactical demonstration at 1:00 p.m.

### **Parker's Revenge Tactical Demonstration**

#### **Minute Man Visitor Center**

**12:45 p.m.**

Watch hundreds of British and Colonial Reenactors who will engage in a battle demonstration showing the running fight that took place along this deadly stretch of road on the border of Lincoln and Lexington. After the demonstration you will have the opportunity to get up close and talk with these amazing volunteers and learn about British regulars and Colonial militiamen in great detail.

### **Sunday, April 17th**

#### **The Search of the Barrett Farm At the Colonel James Barrett House, 448 Barrett's Mill Road, Concord 1:30 – 4:30**

**p.m.** Visit the home of Colonel James Barrett and talk with costumed park rangers and volunteers about colonial military preparations. Around 3:30 p.m. British soldiers will arrive and conduct a search of the property, looking for supplies.

### **Monday, April 18th**

#### **North Bridge Fight Commemoration**

##### **North Bridge, Concord**

**8:30 a.m.** Commemorate Patriot's Day with a dramatic Battle demonstration involving Colonial minute men, British regulars, and musket fire, marking the "shot heard round the world."

### **Town of Concord Parade**

#### **Concord Center**

9am Parade kicks off at the Hunt Gym at 90 Stow Street and proceeds to Main Street, through Concord Center and to the North Bridge. Following a small commemoration celebration, the Parade retreats back through Concord Center, passing by the Reviewing Stand and Concludes at the Hunt gym.

#### **Concord Museum**

Make the Concord Museum part of your Patriots' Day tradition! Each April, Concord is the focal point for visitors from near and far as area minutemen reenact the fateful events of April 19, 1775 and fife and drum corps from all over the nation march down Main Street. After the Patriots' Day parade, or anytime throughout the Patriots' Day weekend, visit the Concord Museum's six history galleries and experience a hands-on orientation to Concord's remarkable past.

### **Patriots' Day Minuteman Encampment**

**"I haven't a man who is afraid to go!"** Visit the brave Acton Minutemen company in an encampment outside the Concord Museum on Patriots' Day and see them drilling with muskets to prepare for battle, cooking over a firepit, and demonstrating colonial spinning and sewing.

This program is free and open to the public thanks to the generosity of the Massachusetts Society of Cincinnati.

### **Patriot Vigil**

**Lantern light procession: 7:50 p.m. (step off at North Bridge Visitor Center)**

**Ceremony at North Bridge: 8:00 – 8:45 p.m.**

As darkness descends upon the North Bridge battlefield we invite you to come and reflect on the events of April 19, 1775 and the meaning of liberty. The evening ceremony will feature a lantern-light procession, poetry, music, and a recitation of the names of the soldiers who gave their lives on that "ever-memorable" 19<sup>th</sup> of April.

Please note, if you would like to participate in the procession at 7:50 p.m. we ask you bring your own enclosed candle lantern - real candles only - no flashlights or LED lights in the procession please.

**Tuesday, April 19th**

**Dawn Salute**

**6am North Bridge**

**Arrival of the Sudbury Militia**

**North Bridge, Concord**

**11:30 a.m.**

The Sudbury Companies of Militia and Minute will make their annual march to North Bridge in honor of their fellow townsmen who made the same march in 1775. They will fire volleys from North Bridge in soldierly salute.

**Battle Road Anniversary Hike**

**Meriam's Corner, Concord Massachusetts.**

**12:30 p.m.**

**Registration Coming Soon**

On April 19, 2022 Join National Park Rangers for an immersive 5-mile guided Battle Road trail hike. From Meriam's Corner to Fiske Hill, follow in the footsteps of the ill-fated British Column during the 247<sup>th</sup> anniversary of the Concord expedition. This experiential program will bring the stories of the battle road to life through guided interpretation and immersive Living History elements. Learn about the trials and triumphs of those who experienced the bloody events of April 19, 1775.

Program Logistics:

- Program begins at 12:30. Conclusion at approximately 4:30 p.m. at Fiske Hill in Lexington, Massachusetts. Once registered, participants will receive additional details in a confirmation email.
- This program is free of charge, although registration is required if you would like to reserve a limited seat on the post-program shuttle bus returning participants from Fiske Hill to Meriam's Corner.
- Be advised this program will be an expansive hike over 5-miles of Battle Road Trail on undulating terrain. Sturdy walking shoes/ equipment, weather appropriate clothing, and water are recommended. Park comfort stations at Meriam's Corner, Hartwell Tavern, and the Minute Man Visitor center will be open.
- Be advised bug spray is recommended
- Be advised this program will feature musket fire along with other immersive living history elements.
- Dogs are not permitted on this tour.

Beth Williams

Economic Vitality and Tourism Manager

978.287.1064

978.831.3056 cell

Concord Visitor Center 978-318-3061

Concord Visitor Center, 58 Main Street Concord MA

[www.visitconcord.org](http://www.visitconcord.org)



OLD NORTH BRIDGE

TOWN OF CONCORD

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

**2022 Patriot's Day Parade Application**

*Please Type or Print Legibly*

**NAME OF UNIT:** \_\_\_\_\_

Application Date: \_\_\_\_\_ Address: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_ Unit Commander: \_\_\_\_\_

Email: \_\_\_\_\_ Phones- Home: \_\_\_\_\_

Work: \_\_\_\_\_ Cell: \_\_\_\_\_

Business Manager: \_\_\_\_\_ Email: \_\_\_\_\_

Phones-Home: \_\_\_\_\_ Work: \_\_\_\_\_ Cell: \_\_\_\_\_

**We will participate in the 2022 Patriot's Day Parade:** YES \_\_\_ NO \_\_\_

*Agreement:*

As a participating unit, your group agrees to comply with all directives issued by the Town of Concord and its Public Ceremonies and Celebrations Committee (CPCCC). Your unit may only carry one identifying banner or flag. Under NO circumstances are *motorized* vehicles allowed in the parade; and further, NO vehicles including carriages are permitted without prior written permission and evidence of insurance provided at least one week before the event. Advocacy materials such as placards, balloons, advertising, handouts, or noisemakers are not permitted. Roller blades, skateboards, bicycles, scooters, baby carriages or wagons are not allowed without special permission of the CPCCC. Please note that marchers, and supplies necessary to support your unit, should be clearly identifiable e.g., arm band, tags, etc.

*Signature of Unit Commander:* \_\_\_\_\_

*Print Name:* \_\_\_\_\_

**PARTICIPATION IN THE PARADE:**

No. in Color Guard: \_\_\_\_\_ No. in Marching Band: \_\_\_\_\_ No. of Marchers: \_\_\_\_\_

**We expect our unit to consist of the following:**

No. in Drill Team: \_\_\_\_\_ No. of Horses/Riders: \_\_\_\_\_ No. of Fife & Drum: \_\_\_\_\_ Buggy/Carriage: \_\_\_\_\_

No. of Others: \_\_\_\_\_ **Total No. of People:** \_\_\_\_\_ **Uniform Description:** \_\_\_\_\_

**LUNCHEON:** Will your unit attend the lunch after the parade? YES \_\_\_ ( # \_\_\_\_\_ ) or NO \_\_\_

The Town of Concord and the CPCCC look forward to your participation in the 2022 Patriots' Day parade and celebration and greatly appreciate your efforts!

If you have any questions or concerns please call/email CPCCC Chair: Julissica Navarro-Norton at 617-275-1155 or [cptccc@concordma.gov](mailto:cptccc@concordma.gov)



Approved 2/8/21

**Concord 2025  
Executive Committee  
(Draft #3)**

**Purpose and Duties**

The year 2025 will mark the 250<sup>th</sup> anniversary of the historic battles of Concord and Lexington. 2026 will mark the 250<sup>th</sup> anniversary of the signing of the Declaration of Independence. To mark these significant anniversaries, the Select Board will create the Concord 2025 Executive Committee. The purpose of the Committee is to evaluate and make recommendations as to how the Town should organize for this event and to serve as the Executive Committee to oversee other committees to be created to assist with this effort; and, to oversee activities to be held to commemorate the 250<sup>th</sup> Anniversary of the Battle of Concord and other historical events related to the founding of our Country.

The Executive Committee will also coordinate the Town's events with our sister communities of Lincoln, Bedford, Lexington, and Arlington (Battle Road 2025); Minuteman National Historical Park; Hanscom Air Force Base as well as with other local, state, regional and federal events.

As the 200<sup>th</sup> celebration in 1975 was a grand celebration including multiple events across several months/years planned by numerous subcommittees and entities well in advance of an accepted invitation from President Ford and other dignitaries, the committee's work will commence immediately and extend through December 2026 in anticipation of a possible breadth of events on the same scale. Given the scope of the committee's charge, it may be necessary for the committee to request an amended charge from the Select Board once the landscape of the numerous celebration-related Federal, State and local communities' plans are initially surveyed and the Concord 2025 Executive Committee outlines its own preliminary plans. The Select Board recognizes that immediate advance planning/outreach will be needed for specific components of the preliminary plan.

As part of its duties, the committee shall:

1. develop a comprehensive plan for celebrating and promoting the 250th anniversary of the Battle of Concord;
2. identify funding needs and a plan for both Town and private funding (which would require a 501(c)3 entity);
3. develop a plan for a permanent memorial and recommend its placement;

4. appoint subcommittees, where necessary, to carry out specific tasks and in so doing may appoint members of the Executive Committee and/or other residents of the Town;
5. identify opportunities for individuals or organizations to participate in celebrations of the anniversary;
6. ensure that activities represent a commitment to diversity and inclusiveness, and create opportunity at all levels and activities for citizen participation;
7. hold public hearings from time to time in order to gain input from the residents of Concord, including at least three in the first eighteen months of the committee's formation; and,
8. report its activities to the Select Board on a periodic basis, but no less often than on a quarterly basis.

### **Membership**

The Committee shall be a 9-12 member committee with appointments made by the Select Board.

Representatives from each of the following groups will constitute the committee:

- Select Board or appointee (1)
- Town (1)
- **Concord Public Schools/Concord-Carlisle Regional High School/Minuteman Technical High School (1)**
- Business Community (1)
- PCCC or Reenactment Community (1)
- 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)

### **Other Considerations**

The Committee shall comply with the provisions of the Open Meeting Law (OML), the Public Records Law, the Conflict of Interest Law and all other laws and regulations of the Commonwealth, as well as all relevant Bylaws and Administrative Policies of the Town. Given the number of citizens that may be asked to participate on subcommittees for their particular interest, expertise, and community connection, APP #10 will not apply to this committee or its subcommittees.

**Town of Concord  
Select Board  
June 28, 2021  
6:30 PM  
141 Keyes Road  
Concord, MA**

Join Zoom Meeting

<https://us02web.zoom.us/j/84092395810?pwd=TnMyWmprWHBlZ21CczdQM0EvWVVFZz09>

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=TnMyWmprWHBlZ21CczdQM0EvWVVFZz09>

#	Time	Agenda Item
1.	6:30pm	Call to Order
2.		Consent Agenda <ul style="list-style-type: none"> <li>Town Accountant Warrants: June 24, 2021; June 24, 2021 Sales Tax AP</li> </ul>
3.	6:35pm	Town Manager's Report
4.		Chair's Remarks
5.	6:50pm	FY21 Revolving Fund Budget Adjustment
6.	7:00pm	Discuss and Adopt Capital Planning Task Force Recommendations
7.		Vote to Disband Capital Planning Task Force
8.	7:30pm	Finalize Process and Forms for Town Manager Evaluation
9.	8:00pm	Initial discussion of 2025 Executive Committee
10.		Appoint SB member to Concord 2025 Executive Committee
11.	8:30pm	Committee Nominations
12.		Committee Appointments: 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.
13.		Committee Liaison Reports
14.		Miscellaneous Correspondence
		Public Comments
16.	9:00pm	Adjourn

Note: All times are approximate and subject to change.

**TOWN OF CONCORD  
SELECT BOARD  
MINUTES  
JUNE 28, 2021  
5:00 PM**

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.

**TOWN OF CONCORD  
SELECT BOARD  
AGENDA  
JULY 12, 2021  
5:30 PM  
141 Keyes Road**

Join Zoom Meeting

<https://us02web.zoom.us/j/84092395810?pwd=TnMyWmprWHBlA21CczdQM0EvWVVFZz09>

Meeting ID: 840 9239 5810

Passcode: 865209

#	Time	Agenda Item
1.	5:30	Call to Order
2.		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.
3.	6:30	Consent Agenda <ul style="list-style-type: none"> <li>• Town Accountant Warrants: July 1, 2021 CPS Expense Warrant; July 8, 2021 AP Warrants</li> <li>• Minutes to approve: June 1, 2021 Executive Session (not to be released); June 13, 2021; June 21, 2021</li> </ul>
4.		Town Manager's Report
5.		Chair's Remarks
		Discussion of 2022 Annual Town Meeting Date
7.		Discuss Autumn Calendar for SB meetings
8.		Set Dates for Capital Planning Forums
9.	7:00	Public Hearing: Application by Papa Razzi Trattoria of Concord located at 768 Elm Street for a new Alternate Manager of Record
10.		Review PEG Access Advisory Committee Charge
11.	7:20	Discuss possible exemption of the 2025 Committee/Subcommittees from APP 10
12.		Discuss Size and Membership of the 2025 Executive Committee
13.		Committee Nominations
14.		Town Manager Appointments with Select Board Approval: 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.
15.		Committee Liaison Reports
16.		Miscellaneous Correspondence
17.		Public Comments
18.	8:00	Adjourn

Note: All times are approximate and subject to change.

**TOWN OF CONCORD  
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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)

**TOWN OF CONCORD  
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5:30 PM**

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

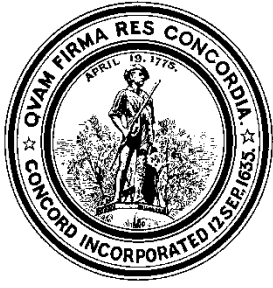
**VOTED:** to accept the Town Manager appointment of Peter Nichol of 500 Walden Street and Ruthy Bennett of 114 Deer Grass Lane to the Climate Action Advisory Board for terms to expire on April 30, 2024.

**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



# TOWN OF CONCORD

## Planning Board

141 Keyes Road - Concord, MA - 01742

Phone: 978-318-3290

To: Select Board

From: Planning Board

Date: March 25, 2022

Re: **MGL Ch. 40A, Section 3A - MBTA Communities Multi-family Zoning Requirement Draft Compliance Guidelines Public Comments**

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The Planning Board has reviewed the Town Planner's memo dated March 18, 2022 which provides an overview of the MBTA Communities requirement adopted by the State in January 2021 under MGL Chapter 40A, Section 3A. Pursuant to Section 3A, the Department of Housing and Community Development (DHCD) is required to prepare guidelines on the implementation of this Section. The DHCD has issued Draft Compliance Guidelines (Guidelines) for public review and comment. The comment period expires on March 31, 2022. The Planning Board has prepared the following comments for submission to the DHCD and would welcome the opportunity to have this submission be a joint effort with the Select Board.

The Concord Planning Board and Concord residents recognize the growing need for and challenge of creating adequate housing to support young families, workers, and an aging population. We welcome the opportunity to create zoning that enables transit-oriented development that would support the Town's housing and sustainability goals. The Town has prioritized these goals in its two most recent Comprehensive Long-Range Plans, and, for more than a decade, the Planning Board has been working progressively to implement zoning changes to create diverse housing, sustainable and efficient buildings, and walkable areas near our MBTA commuter rail stations. We fully support the development of more inclusionary zoning bylaws that will result in housing production that meets the needs of the changing demographics in our community.

Examples of recent changes that the Town of Concord has made to its zoning that promote the development of more diverse housing are:

- An amendment to the Combined Industrial/Business/Residence Zoning provision that allowed for the development of Brookside Square adjacent to the West Concord commuter rail station; a mixed-use development with 74 residential units, including affordable housing units.
- An amendment to the Combined Business/Residence Zoning that allowed for the creation of 10 units in mixed-use developments (2 affordable units) also adjacent to the West Concord commuter rail station.
- An amendment to the Town's Additional Dwelling Unit (ADU) Zoning provision to allow by-right ADUs.

- Amendments to the Planned Residential Development Zoning provisions to facilitate smaller, more diverse housing options, which has led to the creation of 22 units of housing (4 affordable), ranging from one-bedroom to three-bedroom units.
- The adoption of a 2-Family Dwelling Zoning bylaw in the Residence C District, which is primarily within half a mile from the West Concord and Concord Center commuter rail station.
- A major amendment proposed for consideration at the 2022 Annual Town Meeting to the Thoreau Depot Business District, which surrounds the Concord Center commuter rail station, to create a new Zoning Bylaw Section that promotes by-right mixed-use development.

While the Administration acknowledges the complexity involved in the implementation of Section 3A of Chapter 40A in 175 disparate MBTA communities, we hope the comments in this letter clarify the particular challenges faced in Concord and respectfully request that the draft Guideline be revised to encourage successful implementation that achieves the spirit of the Law in all communities.

### **Draft Guidelines Review & Comments:**

Section 3A is very specific and has four (4) requirements for MBTA Communities:

1. One district of reasonable size where multi-family housing is permitted by-right.
2. The zoning for the district cannot contain age restrictions and should be suitable for families.
3. The district must be within half a mile of the commuter rail station.
4. The zoning must allow up to 15 housing units per acre.

It is our opinion that the draft Guidelines go far beyond the authority provided in the Section 3A of the Zoning Act. The draft Guidelines create a program with specified requirements that we believe are arbitrary, require an analysis that is almost impossible to accomplish, do not take into consideration a community's limitations and existing conditions, and establish an additional penalty for noncompliance beyond what is allowed under Section 3A.

These Guidelines do not provide guidance to communities on how to define a "district of reasonable size." Instead, the DHCD has arbitrarily selected 50 acres as a minimum size presumably because 750 units seems reasonable for each of the 175 MBTA communities to allow. The Guidelines then add a new requirement that does not appear to be in the Act or the legislative history: a Minimum Capacity Unit number. For Concord, that means the community must adopt zoning allowing for a density of up to 750 units in the district, but also an additional 345 units based on the Minimum Capacity Unit calculation for Concord, for a total of 1,095 units.

The Minimum Capacity Unit requirement also includes a mandatory analysis (Section 5(b) of the Guidelines) of each parcel of developable land within the 50-acre district. If Concord cannot document that 1,095 units can be built within the 50-acre district, then the district must be further expanded. While we believe that the requirement to perform this analysis goes beyond the requirements of the Act, any such analysis **should** take into account the amount of developable land, the height limitations, lot coverage limitations, maximum floor area ratio, set back requirements, parking space requirements, and **must** take into account the restrictions and limitations set forth in any other municipal bylaws, limitations on development resulting from inadequate water or wastewater infrastructure, and, in areas not served by public sewer, Title 5 limitations, local septic regulations; known title restrictions on use of the land; and known limitations, if any, on the development of new multi-family housing within the district based on physical conditions such the presence of waterbodies, and wetlands.

This analysis is not possible for the following reasons:

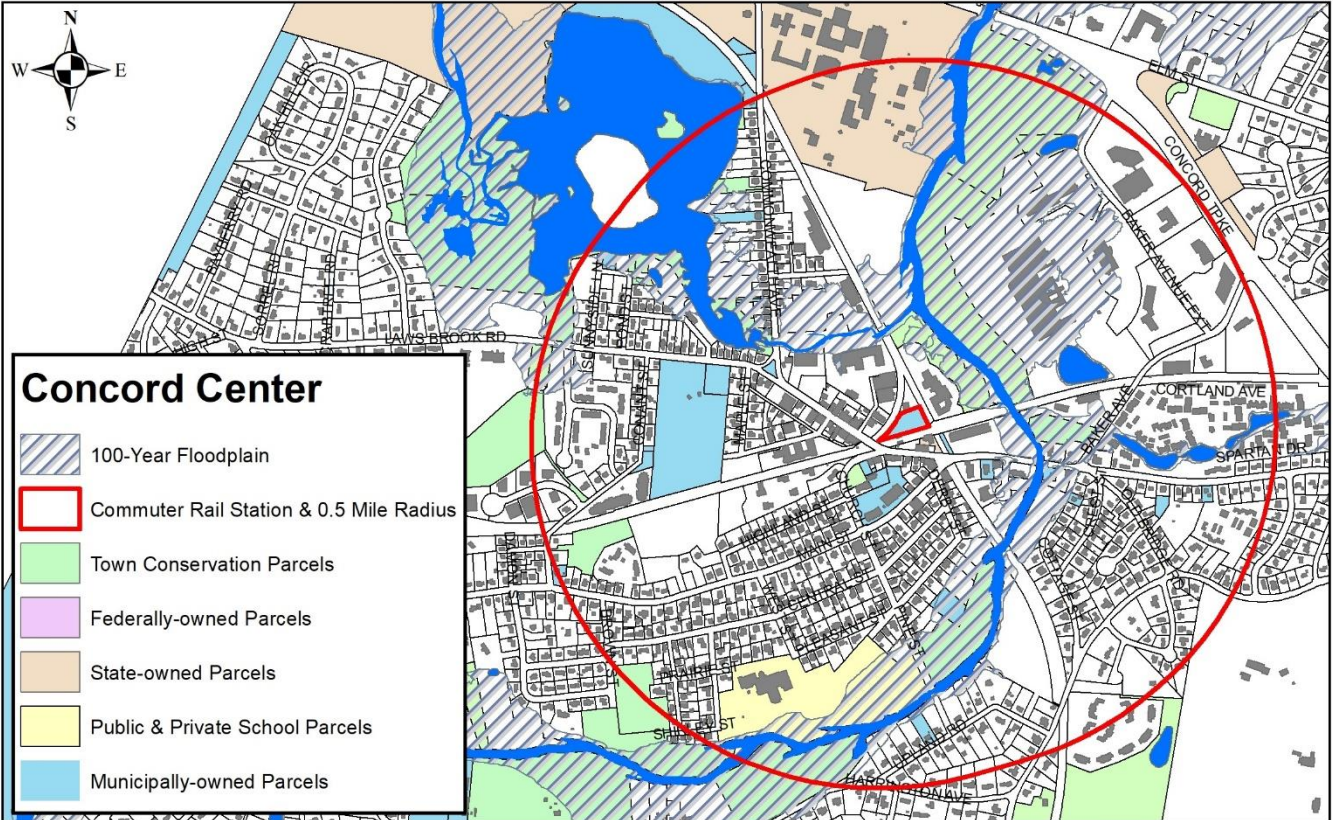
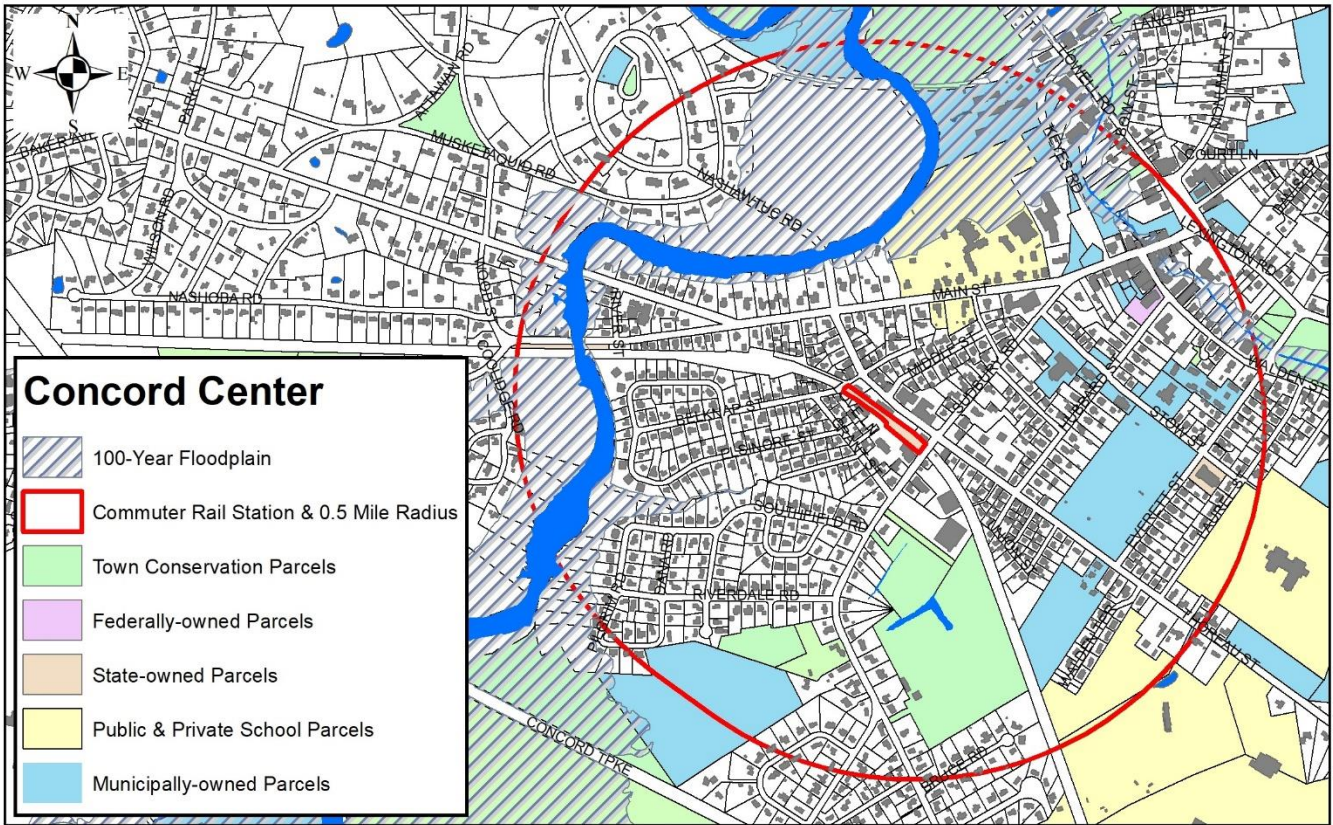
- Required parking is based on the use. So, if the multifamily units are part of a mixed-use development, there is no way to accurately determine the parking requirement for the commercial use(s).
- Title 5 requirements are based on the number of bedrooms and soil testing so that a properly sized system can be constructed. The number of units allowed cannot be determined without that information so a determination cannot be made on how much area of the parcel needs to be devoted to the sewage disposal system.
- The presence of wetlands and whether a development project can be permitted under the Town's Wetland Bylaw requires the flagging of the wetland boundary in the field.

Additionally, the 750 unit and Minimum Capacity Unit requirement, and the requirement that the 50-acre district be expanded if the analysis does not show that 1,095 units can be built, does not take into consideration one very important consideration for Concord, the Town's wastewater capacity.

The Town operates and maintains its own water distribution system and sewer collection system, along with its own Wastewater Treatment Plant (WWTP), which serves the areas within a half mile of both commuter rail stations. The Town received a National Pollution Discharge Elimination System (NPDES) permit from the Environmental Protection Agency (EPA) for the operation of the WWTP which defines the quantity and quality of the treated wastewater that is allowed to be discharged from the WWTP. In order to operate the WWTP in compliance with the NPDES permit limits, there is a limitation on how much of the Town can be part of the sewer collection system. As a result of nearing the permit limits in the past, in 2004 the Town completed a 'Comprehensive Wastewater Management Plan' (Plan), the development of which was a public process that included many neighborhood meetings, Town Boards and Committees, and once completed, the Plan was certified by the State.

Included in the Plan was a sewer eligibility list by address/parcel ID of every parcel eligible for a sewer connection either because the parcel fronts an existing sewer main (i.e. the sewer main is in the street in front of the property), or the property was identified in one of the four future phases of a sewer system expansion. Of note, the Town has completed only the first phase of that sewer system expansion. At this time, the Town is again nearing compacity of the discharge permit and pursuant to the State certified Plan, it would be unable to allow the construction of the number of units required by the DHCD until the EPA permits an increase in the discharge capacity and substantial upgrades are made to the WWTP.

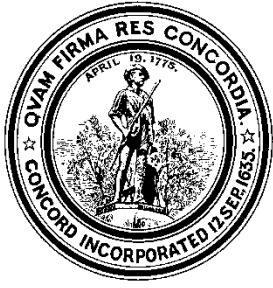
Additionally, the area within half mile of the Concord Center and West Concord commuter rail station, as shown in the following maps, are densely developed with limited commercial districts surrounded by residential development on small lots (10,000 s.f.). Within that area is a significant amount of land owned by Federal and State agencies as well as Town-owned land, schools, and parcel with conservation restrictions. Beyond that is 100-year floodplain for the either the Assabet or Sudbury River, Route 2, and areas that are just as densely developed. This compounds the issue of adequate sewage disposal since very few parcels could even accommodate an on-site sewage disposal system.



Given that much of the land within half a mile of the Concord commuter rail stations would not be considered developable land pursuant to the definition in the Guidelines due to the historic pattern of development and the lack of wastewater capacity, the required district would likely have to include most, if not all the Town. This is definitely not a “district of reasonable size,” which again highlights the arbitrary nature of the Guidelines.

Lastly, the Guidelines propose a penalty for noncompliance that does not appear to have any basis in Section 3A of the Zoning Act. Section 3A lists three specific funding programs that a community would not be eligible for if found in noncompliance. The Guidelines appear to impermissibly expand DHCD’s ability to penalize a noncompliant community by stating DHCD can take into consideration a community’s noncompliance when making allocations for any other discretionary DHCD funding program. Other funding programs have their own set of guidelines that all eligible communities must meet. This additional discretionary ability now places all the MBTA Communities at an added disadvantage if they are in noncompliance, and in the case of Concord, noncompliance has nothing to do with the Town’s willingness to adopt zoning to promote multi-family housing, but rather Town-specific factors such as the Town’s wastewater capacity limitation set by the State.

In conclusion, we believe, the Guidelines should be revised to: (a) allow communities to document and take into consideration their progress on the creation of multi-family housing near transit stops, and (b) list all the various zoning methods that can be adopted to allow multi-family housing. These multiple different zoning methods can then be ranked on their allowed density and area to help guide a community on developing a “district of reasonable size.” There is a need for flexibility in the Guidelines to make them adaptable to communities who are diligently trying to create additional housing and mixed-use developments near MBTA transit stations. A one size fits all approach does not work. We believe the DHCD must consider the complex issues for each community and allow for a variety of ways to achieve compliance before finalizing any Guidelines.



# TOWN OF CONCORD

## Planning Division

141 Keyes Road - Concord, MA - 01742

Phone: 978-318-3290

To: Planning Board

From: Elizabeth Hughes, Town Planner

cc: Kerry Lafleur, Interim Town Manager  
Linda Escobedo, Select Board Liaison

Date: March 15, 2022

Re: **MGL Ch. 40A, Section 3A - MBTA Communities Multi-family Zoning Requirement  
Compliance Overview & Draft Compliance Guidelines**

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This memo is intended to provide the Planning Board a brief overview of the MGL Ch. 40A, Section 3A MBTA Communities Multi-family Zoning Requirement, actions required for compliance with this requirement, information on the Department of Housing and Community Development (DHCD) Draft Compliance Guidelines and my comments regarding the Guidelines. The Planning Board may want to consider submitting a comment letter regarding the Guidelines to the DHCD by the March 31, 2022 deadline, as well as informing the Select Board of its comments to see if they would like to submit a joint letter.

### **Section 3A and Draft Guidelines Overview:**

Section 18 of Chapter 358 of the Acts of 2020 added a new Section 3A to Chapter 40A of the General Laws (the Zoning Act) applicable to MBTA communities. The MBTA communities are any municipality which has a MBTA stop within their border including subway (T), bus, commuter rail, etc. The purpose of Section 3A is to encourage MBTA communities to adopt zoning districts where multi-family zoning is permitted as of right:

*An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.*

The DHCD, in consultation with the MBTA and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. The DHCD promulgated preliminary guidance on January 29, 2021, and then updated that preliminary guidance on December 15, 2021.

The draft Compliance Guidelines (Guidelines) issued by the DHCD requires adoption of zoning meeting specific requirements, including zoning for multi-family housing permitted by-right within a half mile of the MBTA station, the zoned area be at least 50 acres in size, no age restriction and suitable for families, and allow at least 15 units per acre. Additionally, the multi-family district must also be able to accommodate a new Minimum Unit Capacity. Communities with commuter rail stations, the Minimum Unit Capacity is 15% of the total percentage of total housing stock. For Concord that is roughly 1,095 units must be physically able to be built within the zoned area based on estimate of the developable land in the district.

The law does not require the construction of the multi-family housing, and if a community does not already have multi-family zoning in place that meets all of the Guideline requirements, then it must develop an action plan and timeline for development and adoption of the multi-family zoning.

There is no zoning which meets the requirements of the Draft Guidelines in Concord. Zoning would have to be changed to the area surrounding one or both of the commuter rail stations for Concord to be found in compliance, although at this time the needed size of the district cannot be determined. This zoning may be an overlay district where the underlying zoning is not changed, but an added “layer” of by-right multi-family zoning is on top.

Concord must provide written notice to DHCD acknowledging that new zoning will be required to be in compliance with the Guidelines and provide for approval by the DHCD a timeline and action plan for how the new zoning will be adopted. The action plan must specify any planning studies, community outreach activities, timeline for drafting of the zoning amendment, commencement of public hearings on zoning amendments, and adoption by Town Meeting.

### **What happens if Concord does not comply?**

The law states the communities will not be eligible for funding from three State funding programs: Housing Choice Initiative, Local Capital Projects Fund, and the MassWorks Infrastructure Program. However, in the Guidelines, the DHCD has added that at its discretion, noncompliance with the Guidelines may be taken into consideration when making other discretionary grant awards.

### **Timeline:**

1. March 31<sup>st</sup> - Public comment of Draft Guidelines must be submitted to the DHCD.
2. December 31<sup>st</sup> - Written notice from the Town to the DHCD that by-right multi-family zoning amendments are required.
3. July 1, 2023 - Action Plan and Timeline approved by the DHCD.
4. December 31, 2024 – Adoption of new multi-family zoning by Town Meeting.
5. Within [90] days after adoption of the zoning amendment, the MBTA community must submit to DHCD a complete application requesting a determination of full compliance that includes data and analysis demonstrating that a district complies with all of the compliance criteria, including without limitation the district’s land area, unit capacity, gross density and location.

### **Draft Guidelines Review & Comments:**

Section 3A is very specific and has only 4 requirements for MBTA Communities:

1. One district of reasonable size where multi-family housing is permitted by-right.
2. No age restriction and be suitable for families.
3. Be within half a mile of the commuter rail station.
4. Allow 15 units per acre.

Section 3A is also very specific about what happens if a community is not in compliance; they are not eligible for 3 State funding programs: Housing Choice Initiative, Local Capital Projects Fund, and the MassWorks Infrastructure Program. The only other requirement of Section 3A is it requires the DHCD to consult with the MBTA and MassDOT to promulgate guidelines to determine if a community is in compliance.

It is my opinion that the Draft Guidelines go far beyond the limitations set in the legislation and creates a program with specified requirements that are arbitrary, requires an analysis that is almost impossible to accomplish, does not take into consideration a community's limitations, and establishes an additional penalty for noncompliance at the discretion of the DHCD for any other funding program administered by it.

These Guidelines do not provide guidance to communities on creating a "district of reasonable size." Instead, the DHCD has arbitrarily selected 50 acres as a minimum size because 750 units seems reasonable for each of the 175 MBTA communities to allow. However, that is not all. The DHCD then adds a completely new requirement that was never even a consideration or thought by the legislature, a Minimum Capacity Unit number. For Concord, that means the community must allow not only zone for 750 new units, but an additional 345 units have to be able to be built. The DHCD is quick to point out that these requirements do not mean that a community has to build the units, just have the by-right zoning to allow them to be created. This seems counterproductive to the whole purpose of the MBTA Communities legislation and highlights the arbitrary nature of unit requirements. Why require communities to develop zoning for multi-family housing if there is no expectation for it to be constructed.

The Minimum Capacity Unit requirement also includes a mandatory analysis (Section 5(b) of the Guidelines) of each parcel of developable land within the 50-acre district. If the Town cannot document that 1,095 units can be built, then the district must be expanded beyond 50 acres. This analysis **should** take into account the amount of developable land, the height limitations, lot coverage limitations, maximum floor area ratio, set back requirements, parking space requirements, and **must** take into account the restrictions and limitations set forth in any other municipal bylaws, limitations on development resulting from inadequate water or wastewater infrastructure, and, in areas not served by public sewer, Title 5 limitations, local septic regulations; known title restrictions on use of the land; and known limitations, if any, on the development of new multi-family housing within the district based on physical conditions such the presence of waterbodies, and wetlands.

This analysis is not possible for the following reasons:

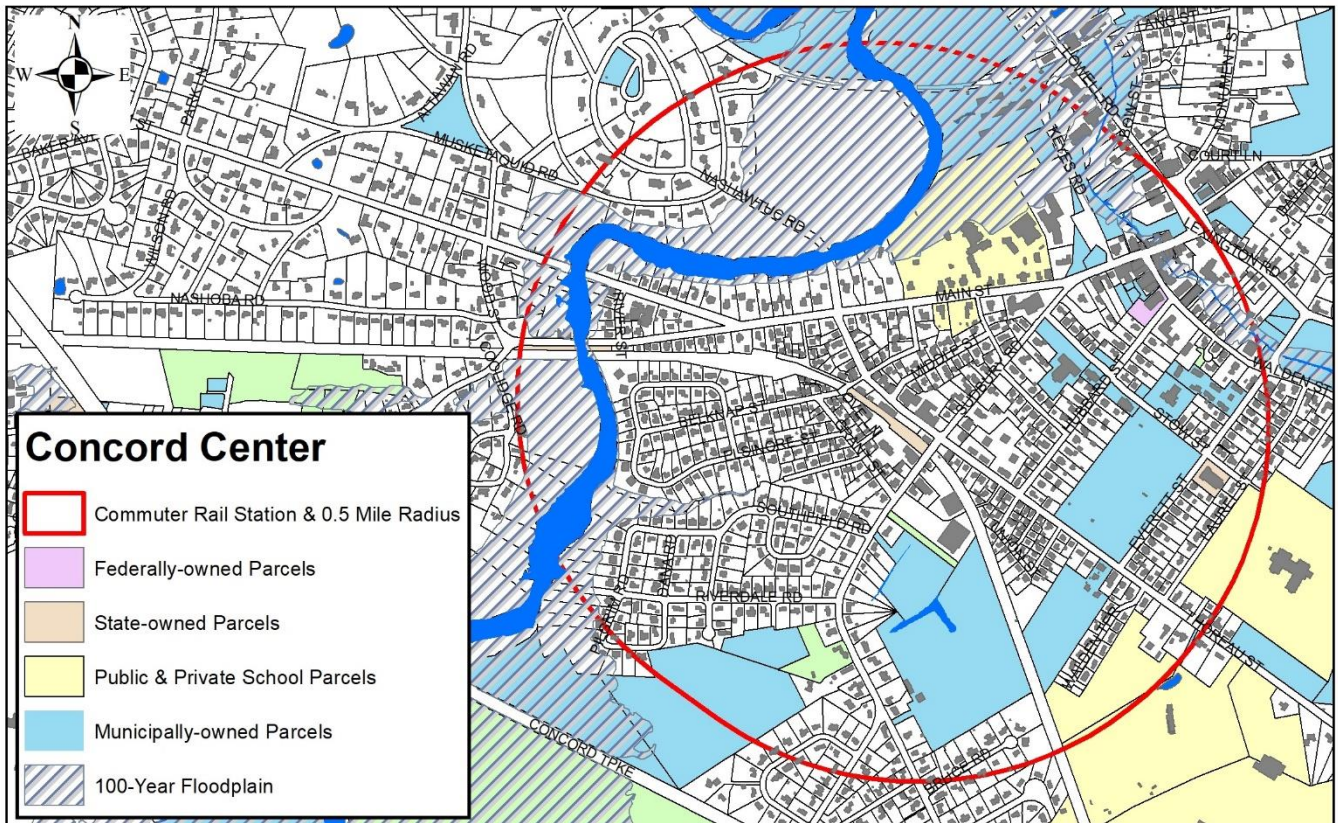
- Required parking is based on the use so if the multi-family units are part of a mixed-use development, there is no way to determine the parking requirement for the commercial use(s).
- Title 5 requirements are based on the number of bedrooms and soil testing so that a properly sized system can be constructed. The number of units allowed cannot be determined without that information so a determination cannot be made on how much area of the parcel needs to be devoted to the sewage disposal system.
- The presence of wetlands and whether a development project can be permitted under the Town's Wetland Bylaw requires the flagging of the wetland boundary in the field.

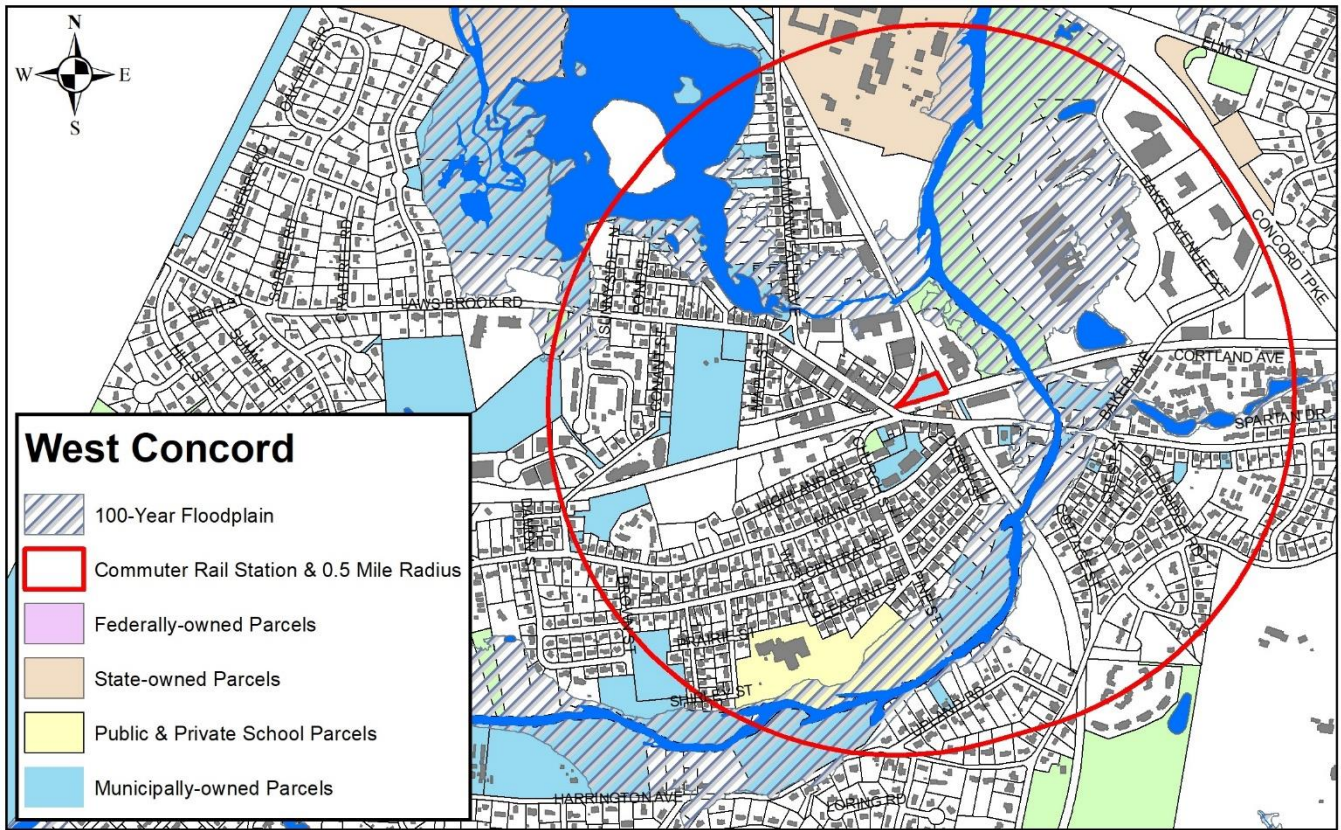
Additionally, the 750 unit and Minimum Capacity Unit requirement, and the requirement that the 50-acre district be expanded if the analysis does not show that 1,095 units can be built does not take into consideration one very important consideration for Concord, the Town's wastewater capacity.

The Town operates and maintains its own water distribution system and sewer collection system, along with its own Wastewater Treatment Plant (WWTP), which serves the areas within a half mile of both commuter rail stations. The Town received a National Pollution Discharge Elimination System (NPDES) permit from the Environmental Protection Agency (EPA) for the operation of the WWTP which defines the quantity and quality of the treated wastewater that is allowed to be discharged from the WWTP. In order to operate the WWTP in compliance with the NPDES permit limits, there is a limitation on how much of the Town can be part of the sewer collection system. As a result of nearing the permit limits in the past, in 2004 the Town completed a 'Comprehensive Wastewater Management Plan' (Plan), the development of which was a public process that included many neighborhood meetings, Town Boards and Committees, and once completed, the Plan was certified by the State.

Included in the Plan was a sewer eligibility list by address/parcel ID of every parcel eligible for a sewer connection either because the parcel fronts an existing sewer main (i.e. the sewer main is in the street in front of the property), or the property was identified in one of the 4 future phases of a sewer system expansion. Of note, the Town has only completed the first phase of that sewer system expansion. At this time, the Town is again nearing compacity of the discharge permit and pursuant to the State certified Plan, it would be unable to allow the construction of the number of units required by the DHCD until the EPA permits an increase in the discharge capacity and substantial upgrades are made to the WWTP.

Additionally, the area within half mile of the Concord Center and West Concord commuter rail station are densely developed with limited commercial districts surrounded by residential development on small lots (10,000 s.f.). Within that area is a significant amount of land owned by Federal and State agencies as well as Town-owned land, schools, and parcel with conservation restrictions. Beyond that is 100-year floodplain for the either the Assabet or Sudbury River, Route 2, and areas that are just as densely developed. This compounds the issue of adequate sewage disposal since very few parcels could even accommodate an on-site sewage disposal system.





Ultimately what this means for the Town of Concord is that since much of the land within half a mile of the commuter rail station would not be considered developable land pursuant to the definition in the Guidelines due to the historic pattern of development and the lack of wastewater capacity, the required district would likely have to include most, if not all the Town. This is definitely not a “district of reasonable size”, which again highlights the arbitrary nature of the Guidelines.

Lastly, the DHCD has gone well beyond the limitations of the legislation, which list three specific funding programs that a community is not eligible for if found in noncompliance, by stating it can use noncompliance in consideration for any other discretionary funding program. Other funding programs have their own set of guidelines that all eligible communities must meet. This additional discretionary ability now places all the MBTA Communities at an added disadvantage if they are in noncompliance, and in the case of Concord, noncompliance has nothing to do with the Town’s willingness to adopt zoning to promote multi-family housing, but everything to do with the Town’s wastewater capacity limitation set by the State.

The Town has over the years continued to adopt zoning that promotes the development of housing:

- Amendment to the Combined Industrial/Business/Residence Zoning provision that allowed for the development of Brookside Square adjacent to the West Concord commuter rail station; a mixed-use development with 74 residential units, including affordable housing units.
- Amendment to the Combined Business/Residence Zoning created 10 units in mixed-use developments (2 affordable units) also adjacent to the W. Concord commuter rail station.
- Amendment to the Additional Dwelling Unit Zoning provision to allow by-right ADUs.
- Amendments to the Planned Residential Development Zoning provisions to facilitate smaller, more diverse housing options, which has led to the creation of 22 units of housing (4 affordable), ranging from one-bedroom to three-bedroom units.

- Adoption of a 2-Family Dwelling Zoning in Residence C District, which is primarily within half a mile from the W. Concord and Concord Center commuter rail station.
- Major Amendment at the 2022 Annual Town Meeting to the Thoreau Depot Business District, which surrounds the Concord Center commuter rail station, to create a new Zoning Bylaw Section that promotes by-right mixed-use development.

A “district of reasonable size” is not one size fits all. The DHCD should be developing guidelines that; (a) allow communities to document and take into consideration their progress on the **creation** of multi-family housing near transit stops, and (b) lists of all the various zoning methods that can be adopted to allow multi-family housing. These various zoning methods can then be ranked on their allowed density and area to help guide a community on developing a “district of reasonable size”. There is a need for flexibility to work with communities who are diligently trying to create additional housing and mixed-use developments and an understanding that this one size fits all approach does not work. I think the DHCD needs to consider the complex issues for each community before finalizing any Guidelines.



March 21, 2022

Secretary Michael Kennealy  
Executive Office of Housing and Economic Development  
1 Ashburton Place, Room 2101  
Boston, MA 02108

Dear Secretary Kennealy:

I am writing to share MAPC's public comments on the draft guidelines for the new Section 3A of M.G.L. Chapter 40A. Of the 175 communities across the Commonwealth subject to these new requirements, 97 are in the MAPC region.<sup>1</sup> The following comments reflect MAPC's position on how the guidelines can best (1) advance the objectives of the law and (2) position municipalities to comply with the requirement. They are rooted in analysis by MAPC staff, input from housing policy experts, and feedback from our member municipalities.

#### Equity

I'd like to convey MAPC's enthusiasm for the principles outlined in section 3(b) of the guidelines, which overlap with many goals from our regional plan, *MetroCommon 2050*, adopted in November 2021. We agree that all MBTA communities should contribute to the production of new housing and that areas with safe and convenient transit access are especially appropriate for multifamily housing. The guidelines, however, do not explicitly include principles around equity. It is paramount that opportunities like Section 3A be used to redress the racial inequity and disparate impacts of longstanding housing practices that have excluded people from many communities in the Commonwealth, including policies that continue to this day. Towards that end, MAPC strongly believes the guidelines should provide communities with the tools to zone for affordable units and larger units suitable for families to meet the most pressing needs in the housing field and to make a significant dent in the region's segregation by race and income.

- **The guidelines should provide incentives for communities to adopt inclusionary zoning for their qualifying district or sub-districts. We recommend giving extra weight to deed-restricted affordable housing units when calculating unit capacity.** In districts where affordable units are required, a unit serving households at or below 80% of Area Median Income (AMI) could count as, say, 1.5 units toward minimum unit capacity, while a unit serving households at or below 50% of AMI could count as 2 units. This would enable communities to zone for slightly fewer units if they require affordable housing through inclusionary zoning or other means. For example, a district might allow for 100 units on a given parcel, while also requiring that 20 of the units are affordable at or below 80% AMI. In this case, the calculated unit capacity is 110: the number of market-rate units (80) plus the "weighted" number of affordable units (20 x 1.5=30). This change would encourage municipalities to establish mandatory inclusionary zoning policies when they otherwise would have little incentive to do so. With reasonable weights, the impacts on overall capacity will be relatively small while the number of affordable units produced could be quite large. To ensure that inclusionary zoning is not used as a barrier to development, the guidelines should require a financial feasibility analysis for mandatory set-asides above 15%.

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<sup>1</sup> Our remaining four communities are Boston, which is exempt from Chapter 40A, and Hudson, Bolton, and Milford, which are not MBTA communities.

- **While the guidelines stipulate districts cannot include age restrictions or place limits on the size of units, number and size of bedrooms, or number of occupants, the guidelines should also address other zoning barriers to multi-bedroom units. First, guidelines should require district parking regulations to be set on a per-unit basis rather than per bedroom.** Parking requirements based on the number of bedrooms discourage developers from building 3-plus bedroom units, which require more floor area *and* more parking area without commanding proportionally higher rent. Requiring municipalities to standardize parking requirements across unit sizes allows developers to make bedroom mix decisions based on the market. Additionally, EOHEd should indicate its intention to review zoning for similar bedroom-based standards that could effectively discourage family-sized units.
- **Second, EOHEd can advance family-sized housing objectives by requiring transparent and inclusive assumptions about unit size and bedroom mix when calculating unit capacity.** For example, any municipality that establishes density limits based on floor area will need to make assumptions about the bedroom distribution and corresponding unit sizes used to estimate unit yield for each district or subdistrict. If a municipality assumes all 1-bedroom and/or studio units, the yield estimate will be higher than if some larger units were in the mix. **The guidelines should require municipalities to assume a minimum of 15% family-sized units when calculating unit capacity.** EOHEd should also establish guidelines for how to document, apply, and report such assumptions. These additions plainly advance the intention of the statute to meet the need for family housing.

#### Location of Districts

For the law to result in truly transit-oriented housing development, and not just housing that happens to be adjacent to transit, the guidelines should include additional language.

- **The guidelines should require at least  $\frac{3}{4}$  of the district rather than  $\frac{1}{2}$  to be within a  $\frac{1}{2}$ -mile walking distance to the corresponding station and establish standards for walking distance.** Currently, municipalities could create districts that are easily a mile or more walking distance from the transit station, which would not advance the objectives of the legislation. The specific areas within a  $\frac{1}{2}$ -mile walking distance can be easily determined using GIS data available from MassDOT, which should be shared with all municipalities. Municipalities should be allowed to submit their own walking distance calculations that account for planned projects or unmapped connections. Municipalities that wish to locate more than  $\frac{1}{4}$  of their district *outside* of the station area should be required to demonstrate that either a) the station area is unsuitable for development based on specific criteria established by EOHEd or b) the proposed location is superior with regard to transportation efficiency as measured through readily available metrics such as transit access to jobs or HUD's Location Affordability Index.
- **The guidelines should expressly allow communities with more than one station area to split their unit capacity across subdistricts in more than one station area. The guidelines should also direct municipalities with more than one station area to prioritize rezoning in the station area(s) more consistent with the Commonwealth's Sustainable Development Principles, and with higher levels of transit access to jobs, location affordability, and local walkability.** Multi-station area municipalities that locate districts or subdistricts in less-accessible station areas should be required to justify the proposed location.

- **EOHED should consider reducing the minimum acreage from 50 acres to 25 acres to allow smaller districts more appropriate for small, slow-growth communities, while requiring districts to contain a minimum number of developable parcels in order to ensure multiple options for developers.** This would prevent sprawling patterns of development and encourage more compact village style development.<sup>2</sup> Compactness is an essential element of successful transit-oriented development, enabling residents to walk to nearby amenities and the transit stop. While there are good reasons to ensure that a district includes multiple parcels and options for developers, oversized districts could end up experiencing scattered development that does not create a sense of place or walkability.

While beyond the scope of the guidance, it is also imperative that transit service be maintained if not enhanced. If municipalities are to undertake complicated rezoning efforts to facilitate transit-oriented development, then that transit must be reliable and accessible enough to encourage ridership.

#### Determination of “Reasonable Size”

MAPC applauds EOHED for setting an ambitious, forward-looking target for zoning capacity. The potential increase in zoning capacity—344,000 housing units—is at a scale sufficient to address the next 20 years of multifamily housing demand. By comparison, MAPC and the University of Massachusetts Donahue Institute have previously forecast that the municipalities subject to the law may grow by approximately 215,000 households overall from 2020 to 2040. Given demographic trends and policy goals, it’s reasonable to plan for 75% of this net demand to be met in transit-accessible locations. This translates to about 165,000 units. Therefore, the *regionwide* minimum unit capacity is roughly double the likely demand for multifamily housing in transit areas over the next 20 years. This is an appropriate ratio between capacity and demand.

However, the scale of local rezoning necessary to achieve these outcomes has raised great concern among MAPC’s municipalities, even those supportive of the overall mandate. Rezoning is a complex undertaking under any circumstances; in this case, the scale and timeline for compliance will require significant investment of staff and consultant time as well as political capital. Careful planning is needed to respond to infrastructure capacity limitations and to avoid unforeseen undesirable outcomes, such as demolition and replacement of existing naturally affordable housing. Higher targets also bring greater community opposition and increase the potential that municipalities will opt out of the requirement altogether.

- To reconcile the need for a substantial long-term increase in multifamily zoning capacity with local concerns about the scale and pace of rezoning, **MAPC suggests that the guidelines allow a phased approach that sets an overall lower target for the initial rezoning, followed by increases in the minimum unit capacity at regular intervals.** A phased approach would initially reduce the percentages for each transit service type by, say, two-thirds, thereby requiring municipalities to zone for one-third of the required capacity for the initial deadlines at the end of 2023 and 2024. For example, rapid transit communities would need to zone for a minimum unit capacity equal to 8.3% of their existing stock (one third of 25%). Communities would then have a

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<sup>2</sup> While the definition of multifamily housing in the legislation precludes “missing middle” housing typologies such as clustered homes and duplexes, these housing types are appropriate for many transit areas, not to mention less intimidating for many communities. Furthermore, clustered homes and duplexes can be developed in such a way as to meet the minimum density requirement of 15 units per acre.

set period (e.g., 3 or 5 years) to again increase capacity by their set percentage (e.g., another 8.3% for rapid transit communities), followed by another interval and increasing requirement, so that at the end of six or ten years the full percentage for each service type is reached. This provides a predictable timeline for revisiting and improving district zoning, supporting the requirement's long-term success, while also creating substantial zoning capacity in the short term (115,000 units by the end of 2024.) Such an approach would be similar to the California Regional Housing Needs Allocation process, which sets a framework for municipalities to expand and improve their multifamily zoning districts on a predictable schedule. Communities should be permitted or even incentivized to zone for more than required during the initial rezoning if they don't want to repeat the process multiple times.

- **The guidelines should set a lower minimum unit capacity of no more than 375 units, and the effective capacity (minimum unit capacity/2020 housing units) should be capped at 25% (or a phased equivalent) so that no community is required to do more—in relative terms—than a rapid transit community.** MAPC analysis found the current 750-unit minimum applies to nearly half of the MBTA communities—generally those with the least transit access—and results in effective capacity requirements of up to 70% of existing housing stock. MAPC believes that such requirements are both unreasonable and undesirable; they have the potential to create capacity for tens of thousands of units of housing in areas that are largely car dependent. While it is important to ensure sizeable districts with many development options, it is also true that compactness is an essential element of transit-oriented development and smart growth, and a lower minimum unit capacity will help advance that objective.
- **MAPC continues to recommend that the guidelines use net unit capacity as the standard for compliance** rather than allowing municipalities to demonstrate they meet the minimum unit capacity without netting out existing units or accounting for financial feasibility. Dozens of municipalities have existing neighborhoods at or above the minimum density of 15 units per acre; for many municipalities, simply rezoning to “legalize” these neighborhoods at their existing density could meet the minimum unit capacity requirements without allowing for much new growth. MAPC analysis suggests such rezoning could reduce the cumulative net capacity by *at least* a quarter, with the greatest decreases among rapid transit communities. Creative rezoning by municipalities could reduce the effective net yield even further. As a result, the entire mandate may not have the impact it would if the zoning capacity were for *new* units. It could also lead to misunderstanding and mistrust when municipal officials reassure community members that the capacity in the district isn't *really* the number of new units that might be built.
- **MAPC encourages EOHEd to reconsider the use of a formula based approach, such as [one previously demonstrated by MAPC](#), that provides a tailored minimum unit capacity for each municipality, rather than assigning minimum unit capacity requirements based on transit categories.** Currently, the resulting percentages do not bear a consistent relationship to local level of transit service, housing need, or development opportunity and constraints. Some similarly situated communities have very different requirements based on their transit service designation. While seemingly simple, the service type classification could be challenged as arbitrary. MAPC's proposed formula combines information about transit accessibility to jobs, level of housing exclusion, and potentially developable transit station area to a set minimum unit capacity target for each municipality. The process starts with a baseline yield set by EOHEd (say, 6% of existing housing stock). The formula adjusts the yield up or down based on the three factors; EOHEd determines the relative weights of each factor and the total “spread” between high and low yield percentages. Variants on this formula could be used for MBTA adjacent

communities without a transit station area and for those where the minimum requirement results in an unreasonably high yield (e.g., 50% of existing stock.) For example, yield for adjacent communities could be calculated based only on housing exclusion measures. The formula could also cap the effective yield at two or three times the baseline yield, so no rural communities are subject to excessive requirements.

#### Minimum Gross Density

The statute indicates that a qualifying district must have a minimum gross density of 15 units per acre. MGL Chapter 40A defines the “gross density” measurement as inclusive of land occupied by public rights of way and other undevelopable land. This means that the actual allowable density on the average parcel will need to be higher than 15 units per acre to achieve that same minimum gross density at the district level. This is confusing as well as hard for municipalities to message; how can they defend passing a minimum density of 20 units per acre, for example, when the statute and the guidelines only require 15? It’s also inconsistent with typical local density regulations.

- **The guidelines or other materials from HED should acknowledge this discrepancy and include language that explains why it is necessary for compliant zoning to achieve an actual density of 15 units per acre.** Municipalities need to be able to point to state language as a defense for their proposed density.

#### Allowing Multifamily Housing “As of Right”

The guidelines stipulate that “as of right” development means that construction and occupancy of multifamily housing is allowed in the district without the need to obtain any discretionary permit or approval.

- **The guidelines should clarify that, while overlay districts in general are an acceptable mechanism to satisfy the requirements of Section 3A, a floating overlay district is not.** Floating overlays require two sets of approvals: one to apply the overlay in a particular location and a second to approve the project itself. They do not constitute by-right development.
- **The guidelines should establish a methodology for EOHED to monitor the extent to which site plan review is being used to slow or otherwise thwart development and revisit the guidelines in three years if there is need to remedy this.** A municipality disinclined towards housing production could potentially use this tool to impose undue conditions on development, rather than to ensure development meets a community’s reasonable design goals.

#### Determination of Compliance

Some of the most frequently voiced questions from municipalities about Section 3A relate to the calculation of yield, area, and density. The guidelines do not provide detailed instructions about how zoning features and other elements (such as wetlands or water and sewer capacity) should be considered in estimating whether the zoning meets capacity targets. EOHED has addressed many of these questions, but the level of detail provided so far still delegates many complex decisions to municipalities. While this enables more local control, it is also highly inefficient and creates an opportunity for municipalities to create methodologies that overstate capacity. Each municipality or consultant will have to develop its own approach to determining yield and compliance with the guidelines. A community could make a good faith effort to adopt zoning only to have it ruled ineligible. Estimates developed with different methods and different data sources will be hard to compare or even validate. EOHED has indicated its intention to

provide additional guidance and resources later, but the details of these calculations are essential elements of the program that should be documented in the guidelines.

- **To achieve transparency, the guidelines and review standards should utilize open and standardized information about existing conditions to determine capacity, area, and transit proximity, using formulas and tools that are easily reproducible and verifiable.** The increasing availability of statewide datasets about parcels, development activity, zoning, sewer service, and other development factors allows for consistency across municipalities, enhancing fairness and efficiency. While not all such datasets are comprehensively available, the frameworks exist for municipalities to provide information in a standard format.
- **The guidelines should include or reference step-by-step workflows for determining unit capacity estimates using standardized datasets, local details, and zoning requirements.** The 2020 guidelines for the 40B General Minimum Land Area provide an example of how a complex, locally-specific analysis can be standardized. In this case, the guidelines should specify how to map “developable land” using readily-available datasets, how to document zoning parameters in a standard format (setbacks, height, FAR, parking requirements, etc.), and how to calculate unit capacity for each parcel. By providing communities with detailed instructions on how to calculate unit capacity using standard data, the guidelines could reduce the cost, burden, and variability inherent in requiring municipalities to determine the yield independently.
- **MAPC recommends that EOHEC dedicate resources to the procurement of a decision support tool available to all municipalities to help with determining minimum unit capacity.** A website or application, pre-populated with available data and transparent formulas, could enable users to draw zoning district boundaries, specify density assumptions, and receive an estimate of district capacity. This will allow communities to focus on planning and consensus building instead of mapping and calculations.
- **The guidelines should provide a detailed framework for how municipalities should determine “limitations...resulting from inadequate water and sewer infrastructure.”** For municipalities or districts lacking centralized sewer systems, the guidelines must specify how the capacity analysis should account for the leaching area needed to support the estimated yield on each parcel, and how to demonstrate that the estimated yield is not limited by wastewater disposal requirements. Existing data on the extent of soils suitable for subsurface disposal based on NRCS classification will be essential for this analysis. For parcels in areas proposed to be served by package treatment, the capacity analysis should identify potential treatment and discharge sites.
- **The guidelines should also specify how municipalities will respond to limitations on water withdrawals and wastewater treatment established through the Water Management Act and how to ensure consistency with safe yields identified through the Sustainable Water Management Initiative.** Involvement of the DEP Water Management Program will be essential to determine the unit capacity that is “reasonable” for a given watershed. Without careful attention to this issue, municipalities may be adopting zones that can never be developed due to water limitations.<sup>3</sup>

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<sup>3</sup> For municipalities without public sewer, limitations on certain forms of package treatment may be a barrier to development within the new zones. While outside the scope of these guidelines, MAPC recommends EOHEC address issues with existing environmental regulations. Specifically, Massachusetts wastewater disposal regulations require projects of more than 44 units to use wastewater disposal practices that are expensive to permit, construct, operate, and maintain. Recent developments in wastewater disposal technology can provide a more cost-effective approach for mid-sized developments while also protecting

### Submittal Requirements

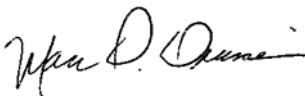
Implementation of Section 3A should minimize subjective review, loopholes, and opportunities for municipalities to avoid appropriate compliance, which is inevitably unfair to communities that make a good faith effort to comply. This will ensure that the program is implemented fairly and equitably, even in wealthy communities with access to sophisticated lawyers and consultants.

- **EOHED should offer towns the option of a preliminary review process before zoning goes to Town Meeting;** otherwise, they could mistakenly adopt non-compliant zoning and need to wait a whole year before undertaking another adoption campaign to make what could be relatively minor adjustments. This process could be similar to DHCD's 40R compliance review.
- **All municipal submittals should be made in electronic format, with machine-readable information (shapefiles, data tables) about district boundaries, zoning standards, and other information.** While it is not feasible to expect municipalities to use a "standard" approach to their zoning, given the existing complexities of local conditions and existing land use codes, municipalities should be required to report certain basic elements of their qualifying zoning in a manner that is comparable across municipalities. For example, regulations related to height, unit density, parking requirements, lot coverage, allowable area, inclusionary zoning requirements, and other important factors should all be reported using the same units and definitions. This would enable information about the districts to be combined into a regional picture important to both developers and stakeholders.
- **The guidelines should specify that municipalities must notify DHCD and RPAs in the event of zoning amendments or rezoning during the 10-year compliance term.** If new zoning is adopted that is no longer in compliance with Section 3A, the municipality's status should be changed to non-compliant.

### Conclusion

Section 3A is a tremendous opportunity to address the Commonwealth's housing crisis. With strong guidelines, it will not only help meet profound housing need, but also position our communities to become more inclusive and the region to become more sustainable. I appreciate your consideration of MAPC's comments on the draft guidelines and would be happy to answer any questions you may have. I look forward to the final guidelines for Section 3A and to working with our communities to adopt zoning that expands housing choice.

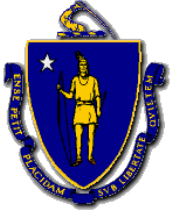
Sincerely,



Marc D. Draisen  
Executive Director

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human health and the environment. The State should consider a number of options to modernize its regulations, including a new tier of regulations for 45-to-90-unit developments and new ways of calculating flow rate for large developments.



Commonwealth of Massachusetts  
**DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Jennifer D. Maddox, Undersecretary

**DRAFT Compliance Guidelines for Multi-family Districts**  
**Under Section 3A of the Zoning Act**

**1. Overview of Section 3A of the Zoning Act**

Section 18 of chapter 358 of the Acts of 2020 added a new section 3A to chapter 40A of the General Laws (the Zoning Act) applicable to MBTA communities (referred to herein as “Section 3A”). Subsection (a) of Section 3A provides:

*An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.*

The purpose of Section 3A is to encourage MBTA communities to adopt zoning districts where multi-family zoning is permitted as of right, and that meet other requirements set forth in the statute.

The Department of Housing and Community Development, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. DHCD promulgated preliminary guidance on January 29, 2021. DHCD updated that preliminary guidance on December 15, 2021. These guidelines provide further information on how MBTA communities may achieve compliance with Section 3A.

**2. Definitions**

“Adjacent community” means an MBTA community with no transit station within its border or within 0.5 mile of its border.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring occupancy by at least one person age 55 or older.

“Bus service community” means an MBTA community with a bus station within its borders or within 0.5 miles of its border, or an MBTA bus stop within its borders, and no subway station or commuter rail station within its border, or within 0.5 mile of its border.

“Bus station” means a building located at the intersection of two or more public bus lines, within which services are available to bus passengers; provided that a bus station does not include a shelter or other structure without walls and a foundation.

“Chief executive officer” means the mayor in a city, and the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

“Commonwealth’s sustainable development principles” means the principles set forth at <https://www.mass.gov/files/documents/2017/11/01/sustainable%20development%20principles.pdf> as such principles may be modified and updated from time to time.

“Commuter rail community” means an MBTA community with a commuter rail station within its borders, or within 0.5 mile of its border, and no subway station within its borders, or within 0.5 mile of its border.

“Developable land” means land on which multi-family housing units have been or can be permitted and constructed. Developable land shall not include land under water, wetland resource areas, areas lacking adequate water or wastewater infrastructure or capacity, publicly owned land that is dedicated to existing public uses, or privately owned land encumbered by any kind of use restriction that prohibits residential use.

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no legal restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“MBTA community” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.” A list of MBTA communities is attached, including the designation of each MBTA community as a rapid transit community, a bus service community, a commuter rail community or an adjacent community for purposes of these compliance guidelines.

“Multi-family housing” means a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

“Multi-family district” means a zoning district, including an overlay district, in which multi-family uses are allowed by right.

“Rapid transit community” means an MBTA community with a subway station within its borders, or within 0.5 mile of its border. An MBTA community with a subway station within its borders, or within 0.5 mile of its border, shall be deemed to be a rapid transit community even if there is one or more commuter rail stations or MBTA bus lines located in that community.

“Reasonable size” means not less than 50 contiguous acres of land with a unit capacity equal to or greater than the unit capacity specified in section 5 below.

“Residential dwelling unit” means a dwelling unit equipped with a full kitchen and bathroom.

“Unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within the multi-family district, made in accordance with the requirements of section 5.b below.

### **3. General Principles of Compliance**

a. These compliance guidelines describe how an MBTA community can comply with the requirements of Section 3A. The guidelines specifically address:

- What it means to permit multi-family housing “as of right”;
- The metrics that determine if a multi-family district is “of reasonable size”;
- How to determine if a multi-family district has a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code;
- The meaning of Section 3A’s mandate that “such multi-family housing shall be without age restrictions and shall be suitable for families with children”; and
- The extent to which MBTA communities have flexibility to choose the location of a multi-family district.

b. The following general principles have informed the more specific compliance criteria that follow:

- All MBTA communities should contribute to the production of new housing stock.
- MBTA communities with subway stations, commuter rail stations and other transit stations benefit from having these assets located within their boundaries and should provide opportunity for multi-family housing development around these assets. MBTA communities with no transit stations within their boundaries nonetheless benefit from being close to transit stations in nearby communities.
- MBTA communities should adopt multi-family districts that will lead to development of multi-family housing projects of a scale, density and character that are consistent with a community’s long-term planning goals.

- “Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family district that is “reasonable” in one city or town may not be reasonable in another city or town. Objective differences in community characteristics must be considered in determining what is “reasonable” for each community.
- To the maximum extent possible, multi-family districts should be in areas that have safe and convenient access to transit stations for pedestrians and bicyclists.

#### **4. Allowing Multi-Family Housing “As of Right”**

To comply with Section 3A, a multi-family district must allow multi-family housing “as of right,” meaning that the construction and occupancy of multi-family housing is allowed in that district without the need to obtain any discretionary permit or approval. Site plan review and approval may be required for multi-family uses allowed as of right. Site plan review is a process by which a local board reviews a project’s site layout to ensure public safety and convenience. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review may not be used to deny a project that is allowed as of right, nor may it impose conditions that make it infeasible or impractical to proceed with a multi-family use that is allowed as of right.

#### **5. Determining “Reasonable Size”**

In making determinations of “reasonable size,” DHCD will take into consideration both the area of the district and the district’s multi-family unit capacity (that is, the number of units of multi-family housing that can be developed as of right within the district).

##### *a. Minimum land area*

Section 3A’s requirement that a multi-family district be a “reasonable size” indicates that the purpose of the statute is to encourage zoning that allows for the development of a reasonable amount of multi-family housing in each MBTA community. A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. A district should not be a single development site on which the municipality is willing to permit a particular multi-family project. To comply with Section 3A’s “reasonable size” requirement, multi-family districts must comprise at least 50 acres of land—or approximately one-tenth of the land area within 0.5 mile of a transit station.

An overlay district is an acceptable way to achieve compliance with Section 3A, provided that such an overlay district should not consist of a collection of small, non-contiguous parcels. At least one portion of the overlay district land areas must include at least 25 contiguous acres of land. No portion of the district that is less than 5 contiguous acres land will count toward the minimum size requirement.

##### *b. Minimum multi-family unit capacity*

A reasonably sized multi-family district must also be able to accommodate a reasonable number of multi-family housing units as of right. MBTA communities seeking a determination of compliance with Section 3A must provide to DHCD an accurate assessment of the number of multi-family housing units that can be developed as of right within the multi-family district, referred to as the district’s unit capacity.

A compliant district’s multi-family unit capacity must be equal to or greater than a specified percentage of the total number of housing units within the community. The required percentage will depend on the type of transit service in the community, as follows:

<b>Category</b>	<b>Minimum multi-family units as a percentage of total housing stock</b>
Rapid transit community	25%
Bus service community	20%
Commuter rail community	15%
Adjacent community	10%

The minimum unit capacity applicable to each MBTA community is determined by multiplying the number of housing units in that community by 0.25, 0.20, 0.15 or 0.10, depending on the type of service in that community. For example, a rapid transit community with 7,500 housing units is required to have a multi-family district with a multi-family unit capacity of  $7,500 \times 0.25 = 1,875$  multi-family units. When calculating the minimum unit capacity, each MBTA community should use 2020 census data to determine the number of total housing units, unless another data source has been approved by DHCD.

When determining the unit capacity for a specific multi-family district, each MBTA community must estimate how many units of multi-family housing could be constructed on each parcel of developable land within the district. The estimate should take into account the amount of developable land in the district, as well as the height limitations, lot coverage limitations, maximum floor area ratio, set back requirements and parking space requirements applicable in that district under the zoning ordinance or bylaw. The estimate must also take into account the restrictions and limitations set forth in any other municipal bylaws or ordinances; limitations on development resulting from inadequate water or wastewater infrastructure, and, in areas not served by public sewer, any applicable limitations under Title 5 of the state environmental code or local septic regulations; known title restrictions on use of the land within the district; and known limitations, if any, on the development of new multi-family housing within the district based on physical conditions such the presence of waterbodies, and wetlands.

If the estimate of the number of multi-family units that can be constructed in the multi-family district is less than the minimum unit capacity, then the MBTA community must change the boundaries of the multi-family district or make changes to dimensional regulations applicable to that district (or to other local ordinances or bylaws) to allow for the development of a greater number of multi-family units as of right.

It is important to understand that a multi-family district’s unit capacity is not a mandate to construct a specified number of housing units, nor is it a housing production target. Section 3A requires only that each MBTA community has a multi-family zoning district of reasonable size. The law does not require the production of new multi-family housing units within that district. There is no requirement nor expectation that a multi-family district will be built out to its full unit capacity.

In some communities, there may be a significant number of multi-family units already existing in the multi-family district; those communities should generally expect fewer new units to be produced in the district, because it is more fully built out. Conversely, there may be some communities with relatively little multi-family housing in its multi-family district; there generally will be more opportunity for new

housing production in those districts in which there is a large gap between unit capacity and the number of existing multi-family units.

## **6. Minimum Gross Density**

Section 3A states that a compliant multi-family district must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. DHCD will deem a zoning district to be compliant with Section 3A’s minimum gross density requirement if the following criteria are met.

### *a. District-wide gross density*

Section 3A expressly requires that a multi-family district—not just the individual parcels of land within the district—must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. To comply with this requirement, the zoning must legally and practically allow for a district-wide gross density of 15 units per acre. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

To meet the district-wide gross density the municipality must demonstrate that the zoning for the district permits a gross density of 15 units per acre of land within the district, “include[ing] land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.” By way of example, to meet that requirement for a 50-acre multi-family district, the municipality must show at least 15 existing or potential new multi-family units per acre, or a total of at least 750 existing or potential new multi-family units.

### *b. Achieving district-wide gross density by sub-districts*

Zoning ordinances and bylaws typically limit the unit density on individual parcels of land. To comply with the statute’s density requirement, an MBTA community may establish sub-districts within a multi-family district, with different density requirements and limitations for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre.

## **7. Determining Suitability for Families with Children**

Section 3A states that a compliant multi-family district must be without age restrictions and must be suitable for families with children. DHCD will deem a multi-family district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions and does not place any limits or restrictions on the size of the units, the number of bedrooms, the size of bedrooms, or the number of occupants.

## **8. Location of Districts**

Section 3A states that a compliant multi-family district shall “be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” DHCD will interpret that requirement consistent with the following guidelines.

### *a. General rule for measuring distance from a transit station.*

To maximize flexibility for all MBTA communities, the distance from a transit station may be measured from the boundary of any parcel of land owned by a public entity and used for purposes related to the transit station, such as an access roadway or parking lot.

### *b. MBTA communities with some land area within 0.5 miles of a transit station*

An MBTA community that has a transit station within its boundaries, or some land area within 0.5 mile of a transit station located in another MBTA community, shall comply with the statutory location requirement if a substantial portion of the multi-family district is located within the prescribed distance. Absent compelling circumstances, at least [one half] of the land area of the multi-family district should be located within 0.5 mile of the transit station. The multi-family district may include land areas that are further than 0.5 mile from the transit station, provided that such areas are easily accessible to the transit station based on existing street patterns and pedestrian connections.

In unusual cases, the most appropriate location for a multi-family district may be in a land area that is further than 0.5 miles of a transit station. Where none of the land area within 0.5 mile of transit station is appropriate for development of multi-family housing—for example, because it comprises wetlands or land publicly owned for recreation or conservation purposes—the MBTA community may propose a multi-family use district that has less than one-half of its land area within 0.5 miles of a transit station. To the maximum extent feasible, the land areas within such a district should be easily accessible to the transit station based on existing street patterns, pedestrian connections, and bicycle lanes.

### *c. MBTA communities with no land area within 0.5 miles of a transit station*

When an MBTA community has no land area within 0.5 mile of a transit station, the multi-family district should, if feasible, be located in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that otherwise is consistent with the Commonwealth’s sustainable development principles—for example, near an existing downtown or village center, near an RTA bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

## **9. Determinations of Compliance**

DHCD will make determinations of compliance with Section 3A upon request from an MBTA community, in accordance with the following criteria and schedule. An MBTA community may receive a determination of full compliance when it has a multi-family district that meets all of the requirements of Section 3A. An MBTA community may receive a determination of interim compliance for a limited duration to allow time to enact a new multi-family district or amend an existing zoning district in order to achieve full compliance with Section 3A.

*a. Requests for determination of compliance*

When an MBTA community believes it has a multi-family district that complies with the requirements for Section 3A, as set forth in these guidelines, it may request a determination of compliance from DHCD. Such a request may be made for a multi-family district that was in existence on the date that Section 3A became law, or for a multi-family district that was created or amended after the enactment of Section 3A. In either case, such request shall be made on a form required by DHCD and shall include, at a minimum, the following information, which shall be provided in a format or on a template prescribed by DHCD:

General district information

- i. A map showing the municipal boundaries and the boundaries of the multi-family district;
- ii. A copy of those provisions in the municipal zoning code necessary to determine the uses permitted as of right in the multi-family district and the dimensional limitation and requirements applicable in the multi-family district;
- iii. A plan showing the boundaries of each parcel of land located within the district, and the area and ownership of each parcel as indicated on current assessor records;

Location of districts

- iv. A map showing the location of the nearest transit station and how much of the multi-family district is within 0.5 miles of that transit station;
- v. In cases where no portion of the multi-family district is located within 0.5 miles of a transit station, a statement describing how the development of new multi-family housing within the district would be consistent with the Commonwealth's sustainable development principles;

Reasonable size metrics

- vi. A calculation of the total land area within the multi-family district;
- vii. A calculation of the multi-family district's unit capacity, along with a statement describing the methodology by which unit capacity was determined, together with:
  - a. A description of the water and wastewater infrastructure serving the district, and whether that infrastructure is sufficient to serve any new multi-family units included in the unit capacity;
  - b. A description of any known physical conditions, legal restrictions or regulatory requirements that would restrict or limit the development of multi-family housing within the district;
  - c. The number and age of multi-family housing units already existing within the multi-family district, if any.

District gross density

- viii. The gross density for the multi-family district, calculated in accordance with section 6 of these guidelines.

## Housing suitable for families

- ix. An attestation that the zoning bylaw or ordinance does not place any limits or restrictions on the size of the units, the number of bedrooms, the size of bedrooms, or the number of occupants in multi-family housing units within the multi-family district.

## Attestation

- x. An attestation that the application is accurate and complete, signed by the MBTA community's chief executive officer.

As soon as practical after receipt of a request for determination of compliance, DHCD will either send the requesting MBTA community a notice that it has provided all of the required information, or identify the additional information that is required to process the request. Upon reviewing a complete application, DHCD will provide the MBTA community a written determination either stating that the existing multi-family use district complies with Section 3A, or identifying the reasons why the multi-family use district fails to comply with Section 3A and the steps that must be taken to achieve compliance.

An MBTA community shall be deemed to be in compliance with Section 3A for the period of time during which a request for determination of compliance, with all required information, is pending at DHCD.

### *b. Action plans and interim compliance—New or amended district*

Many MBTA communities do not currently have a multi-family district of reasonable size that complies with all of the requirements set out in Section 3A and these guidelines. These MBTA communities must take affirmative steps towards the creation of a compliant multi-family district within a reasonable time. To achieve interim compliance, the MBTA community must, by no later than the dates specified in section 9.c, send to DHCD written notice that a new multi-family district, or amendment of an existing multi-family district, must be adopted to come into compliance with Section 3A. The MBTA community must then take the following actions to maintain interim compliance:

- i. *Creation of an action plan.* Each MBTA community must provide DHCD with a proposed action plan and timeline for any planning studies or community outreach activities it intends to undertake in order to adopt a multi-family district that complies with Section 3A. DHCD may approve or require changes to the proposed action plan and timeline by sending the MBTA community written notice of such approval or changes. Rapid transit communities and bus service communities must obtain DHCD approval of an action plan by no later than March 31, 2023. Commuter rail communities and adjacent communities must obtain DHCD approval of a timeline and action plan by no later than July 1, 2023.
- ii. *Implementation of the action plan.* The MBTA community must timely achieve each of the milestones set forth in the DHCD-approved action plan, including but not limited to the drafting of the proposed zoning amendment and the commencement of public hearings on the proposed zoning amendment.

- iii. *Adoption of zoning amendment.* An MBTA community must adopt the zoning amendment by the date specified in the action plan and timeline approved by DHCD. For rapid transit communities and bus service communities, DHCD will not approve an action plan with an adoption date later than December 31, 2023. For commuter rail communities and adjacent communities, DHCD will not approve an action plan with an adoption date later than December 31, 2024.
- iv. *Determination of full compliance.* Within [90] days after adoption of the zoning amendment, the MBTA community must submit to DHCD a complete application requesting a determination of full compliance. The application must include data and analysis demonstrating that a district complies with all of the compliance criteria set forth in these guidelines, including without limitation the district's land area, unit capacity, gross density and location.

During the period that an MBTA community is creating and implementing its action plan, DHCD will endeavor to respond to inquiries about whether a proposed zoning amendment will create a multi-family district that complies with Section 3A. However, DHCD will issue a determination of full compliance only after final adoption of the proposed zoning amendment and receipt of a complete application demonstrating the unit capacity.

*c. Timeframes for submissions by MBTA communities*

To remain in interim compliance with Section 3A, an MBTA community must take one of the following actions by no later than December 31, 2022:

- i. Submit a complete request for a determination of compliance as set forth in section 9.a above; or
- ii. Notify DHCD that there is no existing multi-family district that fully complies with these guidelines, and submit a proposed action plan as described in section 9.b above.

**10. Renewals and Rescission of a Determination of Compliance**

*a. Term and renewal of a determination of compliance*

A determination of compliance shall have a term of 10 years. Each MBTA community shall apply to renew its certificate of compliance at least 6 months prior to its expiration. DHCD may require, as a condition of renewal, that the MBTA community report on the production of new housing within MBTA community, and in the multi-family district that was the basis for compliance. Applications for renewal shall be made on a form proscribed by DHCD.

*b. Rescission of a determination of compliance*

DHCD reserves the right to rescind a determination of compliance if DHCD determines that (i) the MBTA community submitted inaccurate information in its application for a determination of compliance, (ii) the MBTA community amended its zoning or enacted a general bylaw or other rule or regulation that materially alters the Unit capacity in the applicable multi-family use district.

**11. Effect of Noncompliance**

If at any point DHCD determines that an MBTA community is not in compliance with Section 3A, that MBTA community will not be eligible for funds from the following grant programs: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2E of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A. DHCD may, in its discretion, take non-compliance into consideration when making other discretionary grant awards.

# Town of Lincoln

**Lincoln Town Offices**  
16 Lincoln Road  
Lincoln, MA 01773  
Ph: 781-259-2600  
FAX: 781-259-8735



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March 10, 2022

To: Chris Kluchman, Deputy Director, Community Services Division at Massachusetts  
Department of Housing and Community Development (DHCD)  
chris.kluchman@state.ma.us

Re: Feedback on the Multi-Family Zoning Requirements and Guidelines for MBTA communities

Dear Ms. Kluchman,

Thank you for the opportunity to provide feedback on the Draft Guidelines for the new Section 3A of MGL c. 40A. We appreciate that the state is working to address issues of housing, equity, transportation, and sustainability.

## **Context**

The Town of Lincoln has a history of thinking creatively about housing diversity and the balance between the built environment and open space. Since the 1970s, the Town has adopted planning policies that are considered best practices and Lincoln earned its designation as a Housing Choice community in 2021. Lincoln has been proactive in permitting multi-family housing units throughout town, and currently multi-family residential units make up 35% of all residential units (excluding housing located on Hanscom Airforce Base). The most recent multi-family project, Oriole Landing, is a sixty-unit rental property with 25% affordable units. Upon its completion in 2020, Oriole Landing brought Lincoln's Subsidized Housing Inventory to 13.99%; preliminary 2020 census numbers have Lincoln at 12.8%.

Zoning bylaw updates are ongoing. In 2021, residents approved revisions to the accessory dwelling unit bylaw that make it easier to add such units to smaller homes. And for several years, a committee has been investigating potential zoning changes for the area around the commuter rail stop to motivate transit-oriented development as envisioned in our Comprehensive Plan. A specifically stated goal in that Plan is to create a "compact, vital, walkable village center in the Lincoln Station area that provides more housing choices near public transportation, goods and services for residents, and opportunities for social interaction."

The work we have been doing is aligned with the goals of the Housing Choice Act, and we welcome the opportunity to work with the Commonwealth to better understand how the proposed

guidelines intersect with our current land-use objectives and how they might shape potential zoning changes. In response to the draft guidelines, we have both Lincoln-specific feedback and broad questions that center on:

- Accurate categorization of towns;
- Minimum unit threshold and density requirements;
- Drinking water and wastewater infrastructure;
- Flexibility of zoning locations;
- Interplay with wetlands and conservation land; and
- Commuter rail facilities, schedule, and cost.

### **Categorization**

Currently, Lincoln has been categorized as a “bus service” community.

The language in the Draft Guidelines defines a bus service community as follows:

*‘Bus service community’ means an MBTA community with a bus station within its borders or within 0.5 miles of its border, or an MBTA bus stop within its borders, and no subway station or commuter rail station within its border, or within 0.5 mile of its border.*

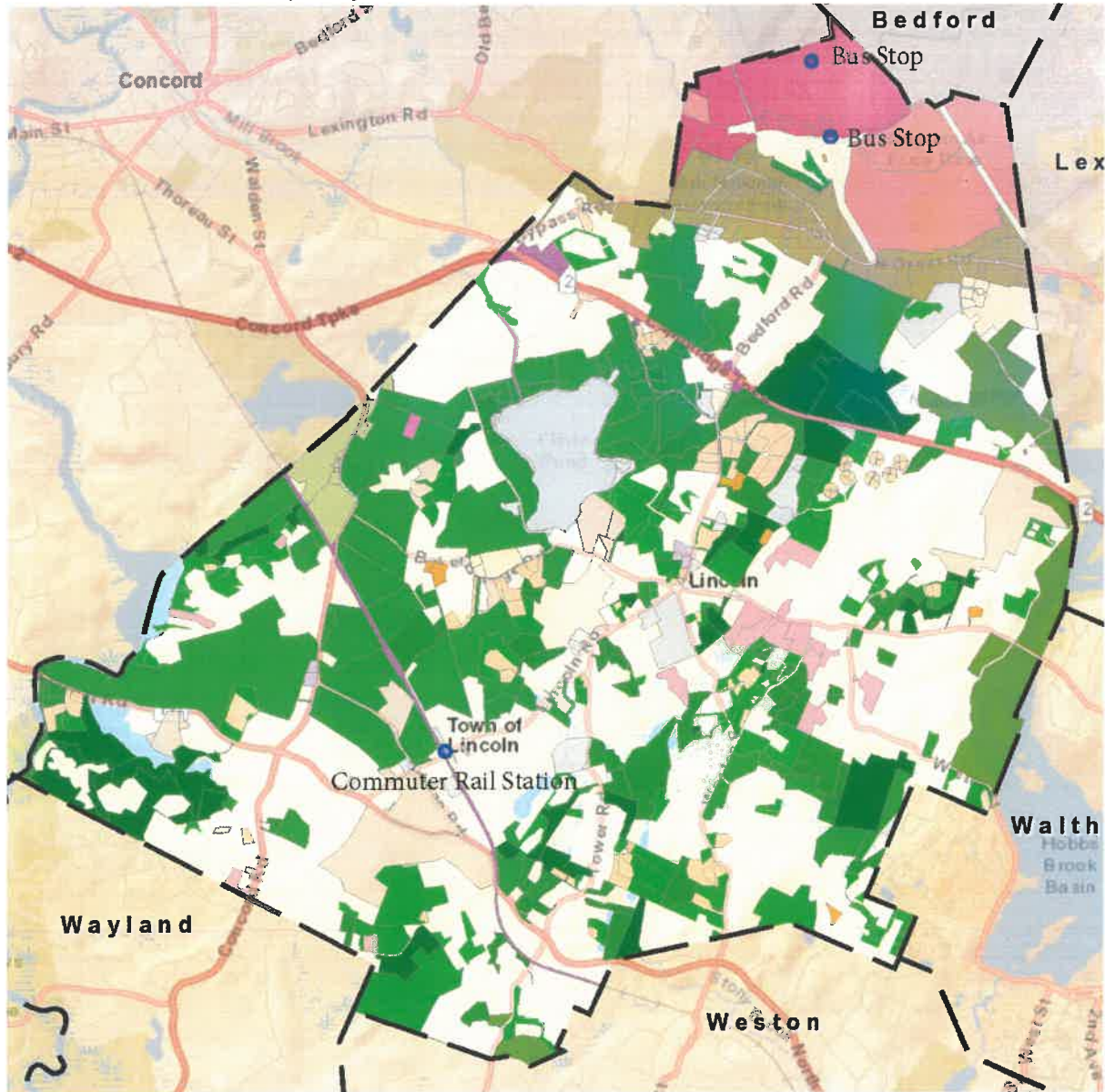
By this definition, we believe Lincoln should be categorized as a Commuter Rail community.

Lincoln is served by the Fitchburg Line of the Commuter Rail which stops in our commercial center in south Lincoln. At that location there is a large commuter parking lot owned by the Town as well as a smaller one reserved for residents. Pre-pandemic, both lots were full Monday through Friday.

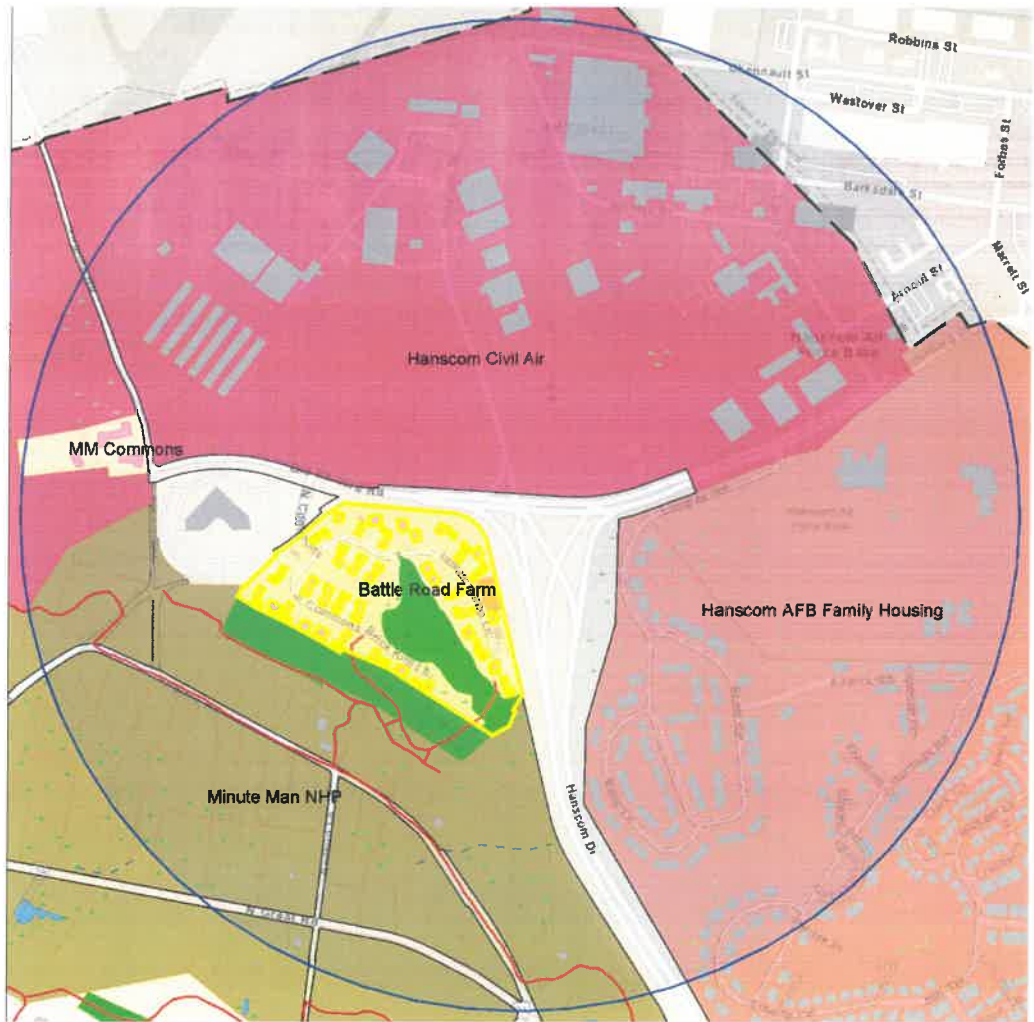
The one MBTA bus line that passes through Lincoln, the #62/76 bus, stops in Lincoln only at the intersection of Hanscom Field Drive and Old Bedford Road to access the Hanscom Air Force Base and then at the Civil Air Terminal. These locations are on the north edge of town, separated from the overwhelming majority of Lincoln’s population by major Routes 2 and 2A and surrounded by Minuteman National Historical Park, Hanscom Airforce Base Family Housing, and Hanscom Field (Massport) as illustrated below. Safe pedestrian access is possible only for the few residents of Battle Road Farm and Minuteman Commons, two modest condominium developments. The next nearest stop to Lincoln housing is at Old Mass Ave and Marrett Road in Lexington. This intersection is at least 0.7 miles from the nearest Lincoln residential area on Mill Street. Access by the Mill Street neighborhood is only along Route 2A which has no pedestrian sidewalks. This bus route with its two stops in remote, inaccessible locations, does not serve Lincoln residents in any practical way.

Map 1 below shows the entire town of Lincoln. The two blue circles at the top of the map indicate the two stops of the #62/76 bus. Both bus stops are on the north side of route 2A surrounded by Minute Man National Historical Park, Hanscom Field and Hanscom Air Force Base Family Housing. The blue dot by the caption “Town of Lincoln” is the location of the Village Center and the Commuter Rail stop.

Map 2 is a larger view of the vicinity of the bus stops which demonstrates that the surrounding area is controlled by entities of the federal government (Hanscom Air Force Base, Minute Man National Historical Park) or by the Commonwealth and are beyond Lincoln's control.



Map 1



Map 2

The Town respectfully suggests categorizing communities with the level of transit that meaningfully serves the residents, while allowing flexibility to consider other transportation stops as appropriate places for zoning that would help meet Housing Choice Act goals.

Categorization is important because of the timeline for compliance. The timeline is significantly different if we are categorized as a commuter rail community rather than a bus service community. In Lincoln, as in other small towns, municipal staff capacity is an issue. The Town has a very small Planning staff and successful zoning changes will require a thoughtful, outreach-intensive, town wide effort. To tailor compliance to different sized communities and avoid the one size fits all approach, categorization and the timeline for compliance must be meaningful and reasonable.

**Minimum Capacity and Density Requirements**

According to the 2020 federal census, Lincoln has 2771 housing units which includes the housing at Hanscom Airforce Base. For compliance with the Affordable Housing regulations, DHCD has historically excluded the Hanscom Family Housing because it is not subject to Lincoln jurisdiction or zoning. With the Hanscom housing excluded, Town assessor’s data indicates that Lincoln currently has 2359 residential units. Of these residential units, 827 or 35% are multi-family units or projects.

When considering the draft guidelines:

1. The minimum capacity of 750 units would represent a 30% overall increase in housing units in Lincoln. Even with credit for existing multi-family units around our train station and an anticipated build out spread over a number of years, the Town would need to prepare for an increase that presents significant challenges to school capacity, public safety requirements, and water capacity and infrastructure. Furthermore, significant wetland areas within the half-mile perimeter around the commuter rail station severely limit development opportunities (see later discussion). The 750 minimum is extremely burdensome given Lincoln's circumstances, and other small towns are undoubtedly similarly situated.
2. The floor of 750 units seems like a one size fits all approach. 42% of all communities are subject to the minimum requirements. This approach may end up disincentivizing small towns from even trying to comply. Or it could yield intentional rezoning of areas for which the likelihood of actual housing production is quite small. The proposed percentages based on categorization are a more logical approach. Therefore, Lincoln requests that DHCD revise the guidelines to require a minimum capacity based on the categorization percentages. Perhaps there could be incentives for towns that choose to exceed the required percentage. Indeed, the zoning changes under consideration by Lincoln's Planning Board prior to the issuance of the guidelines contemplated density bonuses in exchange for affordable housing, attractive public spaces, energy efficiency, and so on.
3. We hope there will be considerable flexibility about how a town meets its zoning goal. Please confirm that so long as we zone for the required number of units, we do not need to meet the 15 units per acre metric in each rezoned area. For example:
  - a. Could we comply by zoning 93 acres at 8 units per acre and achieve the required capacity of units within a half mile of the commuter rail station?
  - b. Alternately, could we split the district and zone 65 or 70 acres within 0.5 miles of the commuter rail station with a variety of densities and rezone Battle Road Farm, near the bus stop, for increased density to make up the total required capacity of units?
4. Achieving both the required capacity and required overall density of 15 units/acre is problematic for small towns trying to align housing project aesthetics with rural or small-town character. Indeed, the draft guidelines state:

*MBTA communities should adopt multi-family districts that will lead to development of multi-family housing projects of a scale, density and character that are consistent with a community's long-term planning goals.*

Lincoln respectfully asks that flexibility be allowed to achieve the goals of the new legislation.

5. We seek further clarification on the permissibility of non-contiguous zones and the distance zones can be from a transit stop. Again, we believe there should be flexibility that considers the individual situations of each community.

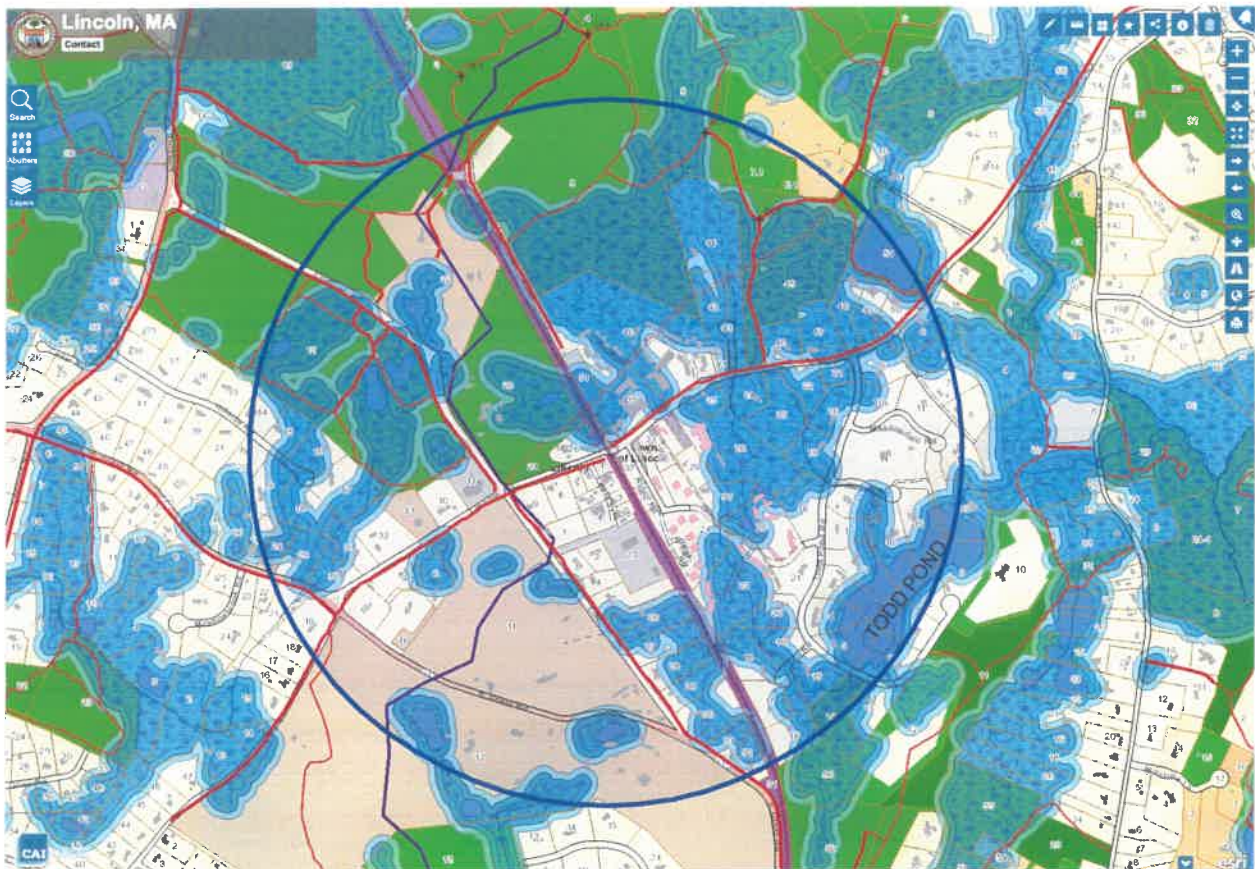
### **Water and Wastewater**

Lincoln is not served by the MWRA, and we operate our own water system. Withdrawal from the aquifer is regulated by MassDEP.

1. If we increase our housing stock, we will need an increase in our usage permit from the DEP to support the additional households. Is DHCD working in collaboration with MassDEP to consider the impact on water systems? Also, will MassDEP commit to granting the necessary permit for increased water usage?
2. Lincoln has no sewer system. Please confirm that the developer would be responsible for providing wastewater treatment on site and that wastewater treatment capacity is not required for compliance nor is the town's responsibility.

### **Wetlands and Conservation Land**

The area within a half mile of our transit station contains large areas of wetlands, as shown in blue, and conservation land, as shown in green on the GIS map below.



Much of this area is already developed as commercial space and multi-family housing. Although there is precedent for redeveloping previously disturbed areas that may be in current buffer zones, the disturbed area cannot be easily expanded. There is also a fair amount of conservation land in this area which cannot be developed. Finally, the large tan area in the southwest corner is Drumlin Farm, owned by Massachusetts Audubon Society. Drumlin is Mass Audubon's most popular site, and while it is not conservation land, it is highly unlikely to ever be developed. The tan parcel in the upper left quadrant is the Codman Estate which is managed by Historic New England.

The combination of large institutional landowners, wetlands, and conservation land significantly constrains the land that can be developed within a half mile of our transit station. As suggested previously, we would like flexibility on distance and density in order to find creative solutions that meet the zoning goals.

### **Commuter Rail Station**

The Lincoln commuter rail station has many issues that have never been addressed by the MBTA. The inbound and outbound stops are on opposite sides of Lincoln Road which creates a severe safety hazard for commuters who tend to sprint across the road during high traffic hours from the parking areas to catch the train. The station is not ADA accessible, as it does not have a raised platform or ADA-compliant pathways to where the train stops. People cannot board the train unless they are able to step up from track level to train steps. Anyone who is elderly, using a wheelchair, on crutches, or who uses a walker, cannot access the train. In addition, accessing the train with a child in a stroller, a bike, or any luggage beyond a backpack or briefcase is difficult. The station has no shelters or adequate seating.

The Commuter Rail is an expensive way to travel to work. Often, the cheapest and most convenient way to travel from Lincoln to Boston is to drive to Alewife, park, and take the red line. Round trip on the commuter rail to North Station is \$17.50, and the schedule is much more constrained. The commuter rail's frequency is problematic, and the travel time longer for almost all destinations.

One of the most important goals of the new legislation is to get people out of their cars and taking public transit. Absent significant changes to the fare structure and scheduling, the majority of new Lincoln residents will behave like current Lincoln residents: they will commute by car. Without major improvements in the station, new Lincoln residents traveling with young children or baggage will behave like current Lincoln residents: they will drive. Increased traffic from increased housing in Lincoln serves the interests of neither the state nor the town.

Lincoln respectfully asks that you work with the MBTA and walk them through the realities of the current state of the Lincoln station, commuter rail economics, and logistics. In order to make transit-oriented development work, the transit system needs to better serve its users.

### **Conclusion**

Lincoln has been and remains committed to maintaining and expanding a range of housing stock that welcomes and supports a diverse community. We believe this can be done sustainably in a

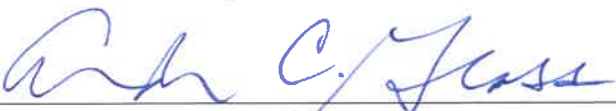
way that protects fragile lands and provides shared open spaces for recreation and enjoyment not only for ourselves but also for the other residents of the region. Local and regional solutions must care for both people and the environment and respect the unique character of our cities and small towns. We seek partnership with the Commonwealth to creatively implement new zoning strategies that balance multiple needs. We respectfully ask DHCD to address our questions and concerns, and to give municipalities maximum flexibility in meeting overall goals. We look forward to our work together.

Sincerely on Behalf of the Town of Lincoln,

  
Jonathan Dwyer, Chair of the Select Board

  
Margaret Olson, Chair of the Planning Board

  
Gary Taylor, Chair of the South Lincoln Planning Advisory Committee

  
Andrew Glass, Chair of the Lincoln Historical Commission, Chair of the Historic District Commission

  
Allen Vander Meulen, Chair of the Housing Commission

  
Ari Kurtz Co-Chair of the Conservation Commission

  
Susan Hall Mygatt, Co-Chair of the Conservation Commission

CC:

Governor Charlie Baker

Lt. Governor Karyn Polito

Michael Kennealy, Secretary of Housing and Economic Development

Senator Michael Barrett [Mike.Barrett@masenate.gov](mailto:Mike.Barrett@masenate.gov)

Representative Thomas Stanley [Thomas.Stanley@mahouse.gov](mailto:Thomas.Stanley@mahouse.gov)

3/10/22

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David Koffman, Legislative Director Massachusetts Municipal Association [dkoffman@mma.org](mailto:dkoffman@mma.org)

James Lampke, Executive Director, Mass Municipal Law Assoc, [jlampke@massmunilaw.org](mailto:jlampke@massmunilaw.org)

Marc Draisen, Executive Director of MAPC [mdraisen@mapc.org](mailto:mdraisen@mapc.org)

Julie Curti, MAGIC Subregional Coordinator [Jcurti@mapc.org](mailto:Jcurti@mapc.org)

Town of Lexington:

Sheila Page, Acting Planning Director, [spage@lexingtonma.gov](mailto:spage@lexingtonma.gov)

Jill Hai, Chair of Select Board, [jillhailex@gmail.com](mailto:jillhailex@gmail.com)

James Malloy, Town Manager, [jmalloy@lexingtonma.gov](mailto:jmalloy@lexingtonma.gov)

Town of Concord:

Marcia Rasmussen, Director of Planning and Land Mgmt. [mrasmussen@concordma.gov](mailto:mrasmussen@concordma.gov)

Terri Ackerman, Chair of Select Board, [tackerman@concordma.gov](mailto:tackerman@concordma.gov)

Kerry Lafleur, Interim Town Manager, [klafleur@concordma.gov](mailto:klafleur@concordma.gov)

Town of Bedford

Tony Fields, Planning Director, [afields@bedfordma.gov](mailto:afields@bedfordma.gov)

Margot Fleischman, Chair of Select Board, [margot.fleischman@gmail.com](mailto:margot.fleischman@gmail.com)

Sarah Stanton, Town Manager, [sstanton@bedfordma.gov](mailto:sstanton@bedfordma.gov)

Town of Weston

Imaikalani Aiu, Town Planner, [aiu.i@westonma.gov](mailto:aiu.i@westonma.gov)

Harvey Boshart, Chair of Select Board, [selectboard@westonma.gov](mailto:selectboard@westonma.gov)

Leon Gaumond, Jr., Town Manager, [gaumond.l@westonma.gov](mailto:gaumond.l@westonma.gov)

Town of Wayland

Sarkis Sarkisian, Town Planner, [ssarkisian@wayland.ma.us](mailto:ssarkisian@wayland.ma.us)

Thomas Fay, Chair of Board of Selectmen [bosmembers@wayland.ma.us](mailto:bosmembers@wayland.ma.us)

Stephen Crane, Acting Town Administrator, [scrane@wayland.ma.ua](mailto:scrane@wayland.ma.ua)

COPY



**United States Department of the Interior**

NATIONAL PARK SERVICE  
Minute Man National Historical Park  
174 Liberty Street  
Concord, Massachusetts 01742



1A2 (MIMA)

March 9, 2022

Brona Simon, Executive Director  
State Historic Preservation Officer  
Massachusetts Historical Commission  
220 Morrissey Blvd.  
Boston, MA 02125

Re: Reroute Battle Road Trail to Improve Safety and Visitor Experience; Consultation, Minute Man National Historical Park, Concord, MA  
NPS: PEPC 80916/PMIS 170863  
MHC: #RC.48314

Dear Ms. Simon:

Thank you for your letters dated February 12, 2021 regarding Minute Man National Historical Park's (MIMA) proposed project for rerouting a section of trail for Battle Road Trail. In our earlier consultation effort for this project, your office asked that we provide: 1) a second copy of the archeological report generated for this project; 2) a CD with a Word file listing the report authors, date, title, page count and archeological abstract; and 3) original MHC historical archeological site inventory forms for Foundation 1 and for the possible foundation east of Shadyside Avenue. The site forms should include USGS locus maps showing the locations of the two features and copies of Figure 5-1 (pages 37-38) of the report. The requested information was provided to the Massachusetts Historical Commission (MHC) by our contractor, PAL, on March 31, 2021. Your office also asked that we 1) indicate the foundations on the construction documents and ensure that both foundations are protected with temporary fencing and signs indicating a no work/no impact area with no activities permitted within the fenced area; 2) prior to proceeding with the project that the project supervisor inform the construction crew verbally and in writing; and 3) during the project, the project supervisor will ensure that the avoidance and protection plan is implemented.

As you are aware, the project calls for the reroute of approximately 700 feet of Battle Road to move the trail off of the shoulder of Lexington Road and improve pedestrian safety. The project will impact three stone walls, which will be opened up to allow the trail to pass through. The stones will be reoriented and


stacked alongside the walls. The proposed route was surveyed as described in the attached report. No resources were discovered within the Area of Potential Effect (APE). Subsequently, the entire Inferrera property was surveyed (report to come out later this year) and this work confirms the findings of the initial survey.

The project design has undergone several iterations through our consultation efforts with the Town of Concord and in response to site conditions. Although our initial letter to MHC on January 12, 2021, described that MIMA was proposing to avoid a mid-block pedestrian crossing on Shadyside avenue as depicted in the early plans submitted, that course of action proved to not be practical. Through our consultation efforts with the Town of Concord, the Town and MIMA agreed that the mid-block crossing is appropriate. Enclosed, please find a plan showing the final route with the mid-block crossing. The archeological survey conducted for this project included the area of the mid-block pedestrian crossing and no archeological resources eligible for listing in the National Register of Historic Places were identified. As part of our submission today, we are also enclosing a copy of our Assessment of Effect (AOE) form for your records.

MIMA has determined that the project will have *No Adverse Effect* on Minute Man National Historical Park National Register District. We request your concurrence with our finding.

If you have any questions please feel free to contact the park's Integrated Resource Manager, Ms. Margie Brown, at 617-620-2942 (mobile), or [margie\\_coffin\\_brown@nps.gov](mailto:margie_coffin_brown@nps.gov).

Sincerely,



Simone Monteleone  
Superintendent

Enclosures:

Copies of previous correspondence  
Construction Document  
Assessment of Effect form

CC without Enclosures:

Kerry LeFleur, Interim Town Manager, Town of Concord  
Heather Gill, Senior Planner, Town of Concord  
Bettina Washington, THPO, Wampanoag of Gay Head (Aquinnah)  
David Weeden, THPO, Mashpee Wampanoag

Melissa Saalfield, Chair  
Nancy Nelson  
Alan Bogosian  
Robert Gross  
Michael Capizzi  
Rebecca Lemaitre, Associate  
Francesca Cataldo, Associate



Department of Planning and  
Land Management  
141 Keyes Road, Concord, MA 01742  
Fax (978) 318-3291  
Heather Gill, Senior Planner  
hgill@concordma.gov

January 11, 2022

Governor Charles Baker  
Massachusetts State House  
24 Beacon Street  
Office of the Governor  
Room 280  
Boston, MA 02133

RE: MassDOT Project ID # 608495

Dear Governor Baker,

On behalf of the Concord Historical Commission, I write to you of our deep concern for the future of Route 2A/The Battle Road which is scheduled to be resurfaced among other treatments by the Massachusetts Department of Transportation (MassDOT). The project is predominantly within the boundary of Minute Man National Historical Park (MMNHP) or immediately adjacent to it. The current 2-lane road within the project area overlays significant sections of the original Battle Road along which a running battle occurred on April 19, 1775. British soldiers died along the road that day and were buried near where they fell.

For decades, this historic road has changed little and even today has relatively few signs, simple pavement markings, limited lighting and is without contemporary highway structures. This is the only remnant of the historic Battle Road that still evokes the memory of its past. Efforts to preserve what little is left of the original Battle Road have been ongoing since the 1930s. A major step forward in protection came in 1959 with the creation of Minute Man National Historical Park. Since that time, many entities and organizations including the national park, the surrounding towns of Concord, Lincoln, Bedford and Lexington, the Massachusetts Highway Department, Hanscom Air Force Base and the Massachusetts National Guard have worked together to preserve the character of the Battle Road. The Battle Road Scenic Byway Committee also seeks to protect the resources along the Battle Road in Arlington, Concord, Lexington, Lincoln and MMNHP.

In recognition of its unique features, the Federal Highway Administration designated the Battle Road an All-American Road in 2020. To achieve this distinction, "a road must possess multiple intrinsic qualities that are nationally significant and have one-of-a-kind features that do not exist elsewhere"...[it] must also be considered a "destination unto itself." (Quoted from 2002 press release from the Federal Highway Administration).

We emphasize the historic importance of Route 2A/The Battle Road because it appears MassDOT does not. We ask you to consider why visitors travel along this road. Of course, there are commercial vehicles, commuters and bicyclists; but in addition, visitors are interested in gaining a better understanding of the events of April 1775. A million people come every year to see and walk amidst the restored and rehabilitated landscape of MMNHP. The Battle Road is a critical artifact of this national

park which merits great care when altering it in any manner. The changes of which we are aware would dramatically negate so much of the efforts to reclaim this area as a national park – efforts that have been achieved with millions of American taxpayer dollars.

MassDOT initially contacted us in June 2021 to initiate the consultation process under Section 106 of the National Historic Preservation Act. In August 2021 we wrote back expressing our dismay with the lack of public engagement and relayed the considerable efforts to create and protect the Battle Road. MassDOT's response was an email requesting clarification of our objections to which we responded with a second letter sent in September 2021. In November 2021 we learned that MassDOT had responded to comments from the towns of Lincoln and Lexington and the National Park Service the previous month. It is now almost four months later and the Historical Commission has had no further communication from MassDOT since their email. We remain deeply concerned about the proposed treatments under consideration: raised splitter islands; crosswalks that may include large, elevated islands; landing pads; flashing lights; and advance warning signs; vertical granite curbing; and a significant increase in pavement markings.

No evidence has been submitted that would compel these changes. We have requested the creation of a Working Group as has been suggested by the National Park Service. We also requested and were granted "consulting party" status as provided by the National Historic Preservation Act and the National Environmental Policy Act but other than receiving this status have heard nothing more. There have been no public hearings and we understand that the design stage is at the 25-75% stage and perhaps progressing to 100% without any public process.

We urgently request your assistance in persuading MassDOT to reconsider their current plans for Rte2A/Battle Road. As currently designed, they will permanently and adversely impact the simple and scenic nature of the historic Battle Road as well as the closely related historic landscapes and structures of Minute Man National Historical Park. To this end, we would appreciate an opportunity for representatives from Concord to meet with you or members of your staff to develop a course of action that will protect these important American resources. Surely, we can do better than what is currently proposed.

Sincerely,



Melissa C. Saalfield, Chair  
Concord Historical Commission

cc:

Senator Elizabeth Warren  
Senator Edward Markey  
Congress, Lori Trahan  
Congress, Katherine Clark  
Senator Michael Barrett  
Senator James Eldridge  
Representative Tami Gouveia  
Representative Thomas Stanley  
Kerry LaFleur, Acting Town Manager, Concord  
Teri Ackerman, Select Board, Concord  
Linda Escobedo, Select Board, Concord  
Simone Monteleone, Superintendent, Minute Man NHP

**D-R-A-F-T**

**MOTION TO ADVANCE FOR CONSIDERATION AND TAKE ACTION ON  
CERTAIN ARTICLES WITHOUT DEBATE  
(2022 CONSENT CALENDAR)**

Ms. Reynolds moves: that the 2022 Annual Town Meeting advance for consideration the Articles in the table below and take action on such Articles without debate on any of such Articles, provided, that upon the request of ten (10) voters at this Meeting, made before the vote is taken on this motion, an Article, or, in the Moderator's discretion, a portion thereof, shall be dropped from the Consent Calendar and shall be acted upon in the ordinary course of business at this Town Meeting.

**Note to Moderator: 2/3 Vote Required**

<b>Article 2</b>	<b>HEAR REPORTS</b> <b>Affirmative Action Recommended By:</b> [Select Board TBD] <b>Motion:</b> That the Town accept the 2021 Annual Report. <b>Reason:</b> Routine, non-controversial action.
<b>Article 3</b>	<b>MEETING PROCEDURE</b> <b>Affirmative Action Recommended By:</b> Finance Committee, Select Board <b>Motion:</b> That in order to assure compliance with the requirements of the Mass. Gen. Laws c. 59, § 21C, the Meeting adopt the following Rule of the Meeting:  <p style="text-align: center;">RULE OF THE MEETING</p> <p>1. <u>Articles for appropriations supported from current taxation and/ or available funds.</u> Any motion made under a warrant article or a motion to amend that would increase the appropriation amount over the amount recommended by the Finance Committee and designated by it as the "allocation at levy limit," or that would provide for an appropriation where the Finance Committee is recommending NO ACTION, must specify the following:</p> <ul style="list-style-type: none"><li>a. the original motion or a motion to amend shall specify the amount of increase over the appropriation recommended by the Finance Committee and the source of funding- whether from available funds, taxation within the levy limit, or contingent upon approval of an override ballot vote following the conclusion of Town Meeting if such ballot is voted by the Board of Selectmen in accordance with state law;</li><li>b. if the proposed increased appropriation is proposed to be funded from taxation within the levy limit, the original motion or motion to amend shall specify the source of funding as:<ul style="list-style-type: none"><li>o a reduction in the appropriation amount already voted under a previous article or within the article currently being considered; or</li><li>o a maximum amount that may be appropriated within the levy limit under a subsequent article in the warrant.</li></ul></li></ul> <p>2. <u>Articles for appropriations supported from borrowing.</u> The Finance Committee shall report to the Meeting summarizing its recommendations for new tax-supported borrowing authority to be offered at this Meeting and for which the debt service is proposed to be funded within the levy limit.</p> <p>Any motion made under a warrant article or a motion to amend that would increase the appropriation amount to be met by a borrowing authorization over the amount recommended by the Finance Committee or that would provide for an appropriation to be met by a borrowing authorization where the Finance Committee is recommending NO ACTION, must specify the following:</p> <ul style="list-style-type: none"><li>a. The original motion or a motion to amend shall specify the amount of increase over the appropriation recommended by the Finance Committee and shall make the increase contingent upon approval of a debt exclusion or capital outlay exclusion ballot vote following the conclusion of Town Meeting if such ballot is voted by the Select Board in accordance with state law; or</li></ul>

	<p>b. The original motion or motion to amend shall include a corresponding and offsetting reduction in another borrowing authorization from among those listed by the Finance Committee, either by a reduction in the amount already voted under a previous article or by setting a maximum amount of debt that may be authorized within the levy limit under a subsequent article in the warrant.</p> <p>3. <u>Articles making appropriations to be kept open.</u> Any Article making appropriations shall be kept open until the final adjournment of the Meeting.</p> <p><b>Reason:</b> Routine and non-controversial at hearing; the motion is identical to Meeting Procedure motions passed annually and unanimously for more than fifteen years.</p>
Article 4	<p><b>RATIFY PERSONNEL BOARD CLASSIFICATION ACTIONS</b>  <b>Affirmative Action Recommended By:</b> Select Board, [Personnel Board TBD]  <b>Motion:</b> That the Town take affirmative action on Article 4 as printed in the Handout.  <b>Reason:</b> Routine annual ratification action; non-controversial at hearing.</p>
Article 5	<p><b>CLASSIFICATION &amp; COMPENSATION PLAN FOR REGULAR-STATUS POSITIONS</b>  <b>Affirmative Action Recommended By:</b> Select Board, [Personnel Board TBD]  <b>Motion:</b> That the Town take affirmative action on Article 5 as printed in the Warrant.  <b>Reason:</b> Routine and non-controversial at hearing.</p>
Article 6	<p><b>PERSONNEL BYLAW AMENDMENT</b>  <b>Affirmative Action Recommended By:</b> Select Board, [Personnel Board TBD]  <b>Motion:</b> That the Town take affirmative action on Article 6 as printed in the Warrant.  <b>Reason:</b> Non-controversial at hearing; amendments to conform Bylaw to State law with respect to Holidays, increase flexibility of Vacation provisions, increase bereavement leave, and update language (e.g., re: gender neutrality) throughout Bylaw.</p>
Article 7	<p><b>USE OF FREE CASH</b>  <b>Affirmative Action Recommended by:</b> Finance Committee, Select Board  <b>Motion:</b> That the Town authorize and direct the Assessors to transfer \$1,000,000 from the Certified Free Cash Balance as of June 30, 2022 to reduce the tax levy for the fiscal year ending June 30, 2023.  <b>Reason:</b> Routine transfer of surplus funds to reduce tax levy; non-controversial at hearing. Surplus results from revenue collection exceeding estimates and/or actual expenditures being less than appropriations.</p>
Article 12	<p><b>APPROPRIATION FOR SENIOR MEANS-TESTED PROPERTY TAX EXEMPTION</b>  <b>Affirmative Action Recommended by:</b> Finance Committee, Select Board  <b>Motion:</b> That the Town transfer the sum of \$150,000 from the Overlay Surplus to fund the Senior Means-Tested Property Tax Exemption program for the Fiscal Year ending June 30, 2023.  <b>Reason:</b> Non-controversial at hearing; appropriation to provide continuity during Fiscal Year 2023 of the Senior Means-Tested Property Tax Exemption that was in place for three years and expired in June 30, 2021, in the event that the state legislature has not yet acted upon pending legislation to reauthorize the program. 2021 Annual Town Meeting voted to fund the program during FY2022 from the Overlay Surplus.</p>
Article 13	<p><b>OPEB TRUST FUND APPROPRIATION</b>  <b>Affirmative Action Recommended by:</b> Finance Committee, Select Board  <b>Motion:</b> That the Town raise and appropriate [TO BE CONFIRMED; \$1,220,195; and transfer \$44,512 from the Water Fund; \$10,949 from the Sewer Fund; \$166,596 from the Light Fund; \$23,752 from the Broadband fund; and \$1,847 from the Swim &amp; Fitness Fund], for a total appropriation of \$1,467,851 to fund the Town's FY22 contribution to the Other Post-Employment Benefits Liability Trust Fund (OPEB Trust) established under Mass. Gen. Laws c. 32B, §20.  <b>Reason:</b> Routine General Fund appropriation to meet the Town's OPEB obligations made in prior years as part of the Town's Budget article, now being appropriated for all funds (General, Enterprise, and Other) in a stand-alone article consistent with best practice as recommended by the Town's auditors and MA Department of Revenue; non-controversial at hearing.</p>
Article 14	<p><b>OPEB TRUST FUND EXPENSE</b>  <b>Affirmative Action Recommended by:</b> Finance Committee, Select Board  <b>Motion:</b> That the Town appropriate from the OPEB Fund established under Mass. Gen. Laws c. 32B, § 20 [\$ ] for OPEB Fund expenses.  <b>Reason:</b> Non-controversial at hearing; administrative change in method of paying OPEB Fund expenses recommended by the Town's advisors to be by direct payment from the Fund instead of by deduction from earnings.</p>

[Type here]

Article 20	<p><b>APPROPRIATION TO MIDDLE SCHOOL STABILIZATION FUND</b> <b>Affirmative Action Recommended by:</b> Finance Committee, Select Board, [Concord Public Schools Committee TBD] <b>Motion:</b> That the Town take transfer from the Overlay Surplus the sum of \$1,000,000 and from the Certified Free Cash Balance as of June 30, 2022 the sum of \$500,000, for a total appropriation of \$1,500,000 to the Middle School Stabilization Fund. <b>Reason:</b> Non-controversial at hearing; Action to distribute over time the impact on the tax levy of the Middle School Building Project that was approved by a substantial majority at 2022 Special Town Meeting and at the subsequent vote at the polls on debt exclusion of the capital expense.</p>
Article 27	<p><b>AMEND DEPARTMENTAL REVOLVING FUNDS BYLAW</b> <b>Affirmative Action Recommended by:</b> Finance Committee, Select Board <b>Motion:</b> That the Town take affirmative action on Article 27 as printed in the Warrant. <b>Reason:</b> Non-controversial at hearing; action to add a Visitor's Center &amp; Tourism Revolving Fund to the Town's Revolving Fund Bylaw for the purpose of depositing program receipts and paying program expenses with the approval of the Town Manager.</p>
Article 28	<p><b>AUTHORIZE EXPENDITURE OF REVOLVING FUNDS UNDER MASS. GEN. LAWS. C. 44, § 53E1/2</b> <b>Affirmative Action Recommended by:</b> Finance Committee, Select Board <b>Motion:</b> That the Town take affirmative action on Article 14 as printed in the Warrant. <b>Reason:</b> Routine authorization of annual spending limits for Revolving Funds, expenditures made pursuant to the Town's Revolving Fund Bylaw with the approval of the Town Manager; non-controversial at hearing.</p>
Article 31	<p><b>ZONING BYLAW AMENDMENT – ADDITIONAL DWELLING UNIT</b> <b>Affirmative Action Recommended by:</b> [Select Board TBD]; [Planning Board TBD] <b>Motion:</b> That the Town take affirmative action on Article 32 as printed in the Warrant, [with additional clarifying language provided by PB]. <b>Reason:</b> Non-controversial at hearing; "grandfathers" ADUs permitted and recorded before 2020 which upon application for renewal may not be in compliance with currently existing ADU requirements.</p>
Article 32	<p><b>ZONING BYLAW AMENDMENT – FORMULA BUSINESS</b> <b>Affirmative Action Recommended by:</b> [Select Board TBD]; [Planning Board TBD] <b>Motion:</b> That the Town take affirmative action on Article 32 as printed in the Warrant. <b>Reason:</b> Non-controversial at hearing; Adds the Thoreau Business District to the Formula Business Bylaw bringing all three Business Districts within the Town under the Bylaw.</p>
Article 34	<p><b>CITIZEN PETITION: ZONING BYLAW AMENDMENT – RESIDENCE A &amp; INDUSTRIAL PARK B ZONING DISTRICT BOUNDARY</b> <b>Affirmative Action Recommended by:</b> [Select Board TBD]; [Planning Board TBD] <b>Motion:</b> That the Town take affirmative action on Article 34 as printed in the Warrant. <b>Reason:</b> Non-controversial at hearing; Amends Zoning District boundaries to bring into use compliance a residence constructed in 1692 currently located within the Industrial Park B Zoning District.</p>
Article 39	<p><b>LIGHT PLANT EXPENDITURES &amp; PAYMENT IN LIEU OF TAXES</b> <b>Affirmative Action Recommended by:</b> Finance Committee, [Select Board TBD] <b>Motion:</b> That the Town authorize the income from sales of electricity and from servicing and jobbing during the fiscal year ending June 30, 2023, together with the balance of operating cash in the Light Plant Fund, to be expended under the direction and control of the Town Manager, without further appropriation, for the expenses of the Light Plant for the fiscal year, as defined in Mass. Gen. Laws c. 164, § 57, and/or for other plant extensions, enlargements, additions, renewals, and reconstruction; and further to authorize a transfer of \$444,000 from the Operating Fund of the Light Plant to be used by the Board of Assessors to reduce the tax levy for the fiscal year ending June 30, 2022. <b>Reason:</b> Routine annual action; non-controversial at hearing. Authorizes the Light Plant to expend its income for operations and provides for the transfer of \$444,000 from the Operating Fund of the Light Plant to be used by the Board of Assessors to reduce the tax levy for the fiscal year ending June 30, 2023.</p>
Article 40	<p><b>SOLID WASTE DISPOSAL FUND EXPENDITURES</b> <b>Affirmative Action Recommended by:</b> Finance Committee, [Select Board TBD] <b>Motion:</b> That the Town take affirmative action on Article 40 as printed in the Warrant. <b>Reason:</b> Routine annual authorization; non-controversial at hearing. Authorizes the Town Manager to expend user fee revenue from the fiscal year ending June 30, 2023 and cash on hand in the Solid Waste Disposal Fund to operate the Town's curbside solid waste and recycling collection and disposal program.</p>

<p><b>Article 41</b></p>	<p><b>SEWER SYSTEM EXPENDITURES</b>  <b>Affirmative Action Recommended by:</b> Finance Committee, [Select Board TBD]  <b>Motion:</b> That the Town take affirmative action on Article 41 as printed in the Warrant.  <b>Reason:</b> Routine annual enterprise fund authorization; non-controversial at hearing. Authorizes the Town Manager to expend user fee revenue for the fiscal year ending June 30, 2023 and cash on hand in the Sewer Fund for the operation, maintenance, and improvement of the Town's sewer system.</p>
<p><b>Article 42</b></p>	<p><b>SEWER IMPROVEMENT FUND EXPENDITURES</b>  <b>Affirmative Action Recommended by:</b> Finance Committee, [Select Board TBD]  <b>Motion:</b> That the Town take affirmative action on Article 42 as printed in the Warrant.  <b>Reason:</b> Routine annual action; non-controversial at hearing. The Sewer Improvement Fund is a sub-fund of the Sewer Fund consisting of fees paid by certain properties connecting to the sewer system; the Article authorizes expenditure from the Fund for construction and expansion of sewer lines and treatment facility capacity.</p>
<p><b>Article 43</b></p>	<p><b>WATER SYSTEM EXPENDITURES</b>  <b>Affirmative Action Recommended by:</b> Finance Committee, [Select Board TBD]  <b>Motion:</b> That the Town take affirmative action on Article 43 as printed in the Warrant.  <b>Reason:</b> Routine annual action; non-controversial at hearing. Authorizes the Town Manager to expend user fee revenue for the fiscal year ending June 30, 2023 and cash on hand in the Water Fund for the operation, maintenance, and improvement of the Town's water system.</p>
<p><b>Article 44</b></p>	<p><b>AUTHORIZE EXPENDITURE FROM PEG ACCESS AND CABLE-RELATED FUND</b>  <b>Affirmative Action Recommended by:</b> Finance Committee, [Select Board TBD], PEG Access Committee  <b>Motion:</b> That the Town transfer from the PEG Access and Cable-Related Fund the amount of \$493,984 to be expended under the direction of the Town Manager for necessary and expedient cable-related purposes consistent with the Comcast licensing agreement during the fiscal year ending June 30, 2023.  <b>Reason:</b> Routine transfer; non-controversial at hearing.</p>

Article #	Title	SB recommendation	SB vote
1	Choose Town Officers	(no motion expected)	
2	Hear Reports	(no motion expected)	
3	Meeting Procedure	affirmative action, unanimous	3/7/2022
4	Ratify Personnel Board Classification Actions	affirmative action, 4 approved (Hen	3/7/2022
5	Classification & Compensation Plan for Regular-Status Position	affirmative action, unanimous	3/7/2022
6	Personnel Bylaw Amendment	affirmative action, 4 approved (Hen	3/7/2022
7	Use of Free Cash	affirmative action, unanimous	3/7/2022
8	FY22 Budget Line Item Adjustments	(no motion expected)	
9	FY23 Town Budget		
10	Capital Improvement and Debt Plan		
11	Senior Means-Tested Property Tax Exemption	affirmative action, unanimous	3/7/2022
12	Appropriation for Senior Means-Tested Tax Exemption	affirmative action, unanimous	3/7/2022
13	OPEB Trust Fund Appropriation	affirmative action, unanimous	3/7/2022
14	OPEB Trust Fund Expense	affirmative action, unanimous	3/7/2022
15	Establishing an Electrification Trust	(no motion expected)	
	Citizen Petition: Five-Year Moratorium on the Installation of		
16	Synthetic Turf on Town Land	affirmative action, unanimous	3/7/2022
17	Minuteman Regional Technical High School District Budget	affirmative action	3/14/2022
18	Concord Public Schools Budget		
19	Concord Public Schools Capital Projects	affirmative action	3/14/2022
20	Appropriation to Stabilization Fund	affirmative action	3/14/2022
21	Concord-Carlisle Regional High School Budget	affirmative action	3/14/2022
22	Concord-Carlisle Regional High School Capital Projects		
23	Citizen Petition: Ranked Choice Voting for Concord Elections		3/7/2022
24	Appropriate Funds for Affordable Housing Development		
25	Assabet River Bluff Preservation Project		
26	Community Preservation Committee Appropriation Recommendations		
27	Amend Departmental Revolving Funds Bylaw	affirmative action, unanimous	3/7/2022
28	Authorize Expenditure of Revolving Funds Under Mass. Gen. L	affirmative action, 4 approved (Hen	3/7/2022
29	Annual Appropriation of Parking Meter Receipts		
30	Scenic Roads General Bylaw		

31	Zoning Bylaw Amendment – Additional Dwelling Unit		
32	Zoning Bylaw Amendment – Formula Business		
33	Zoning Bylaw Amendment – Zoning Map & Thoreau Depot Business District		
	Citizen Petition: Zoning Map Amendment – Residence A &		
34	Industrial Park B Zoning District Boundary		
	Citizen Petition: Zoning Bylaw Section 10 Planned Residential		
35	Development Update		
36	Adopt Local Ballot Option Pursuant to Mass. Gen. Laws 53	on hold	3/7/2022
	Citizen Petition: Authorize Select Board to Petition to Impose a		
37	Checkout Bag Charge	on hold	3/7/2022
38	Citizen Petition: Development Plan for Municipal Solar Generation	on hold	3/7/2022
39	Light Plant Expenditures & Payment in Lieu of Taxes		
40	Solid Waste Disposal Fund Expenditures		
41	Sewer System Expenditures		
42	Sewer Improvement Fund Expenditures		
43	Water System Expenditures		
44	Authorize Expenditure from PEG Access & Cable-Related Fund		
45	Beede Swim & Fitness Center Enterprise Fund Expenditures		
46	Citizen Petition: Reformatory Branch Trail Feasibility Study		
47	Citizen Petition: Preserve Concord’s Reformatory Branch Trail		
48	Unpaid Bills	no action, unanimous	3/7/2022
49	Debt Rescission	no action, unanimous	3/7/2022

3/22/2022

Re: ARTICLE 37

Dear Select Board,

Below are responses to questions regarding Article 37 that surfaced in the prior citizen petition preview meeting. If there are any additional questions I can help answer, please let me know.

**Have you received any feedback from retailers in town?**

I spoke with Debra's (Debra and Adam Stark), Concord Market (Manny Rodriguez, General Manager), and Crosby's (John Cummings, Store Manager) and they are in support.

Mr. Cummings expressed concern that this may divert customer traffic to Acton, which is what happened when the plastic water ban was initiated. These are two very different issues and, in reality, I doubt this would ever happen. Would a Crosby's shopper really burn 40 cents of gas to save 40 cents for 4 bags of groceries? He also mentioned that bag costs recently increased from \$0.10/bag to \$0.20/bag, and that they are starting to eat into margins. From that perspective, he welcomes the idea. While in support generally, he would prefer a statewide mandate. I think everyone would – the question is when/if this might happen.

I also spoke with Marie Foley at Revolutionary Concord. She is mixed. While in support of the article from a sustainability perspective, she said it would impact her business because giving out branded bags is an important part of their marketing strategy. 50% of her business is tourists, and most come with no bags. She also expressed similar concern about bag costs. Since they don't order in bulk like Crosby's, bags with handles are significantly more expensive – a small bag with a branded sticker costs approximately \$0.65. A larger bag is almost double that. She is the president of the Chamber of Commerce and will forward the article materials to the board. She said she would be supportive if over half of the members are supportive as well. We will be setting up a Zoom meeting in the next few weeks.

**Concerns about Board of Health being the enforcement entity**

I spoke with Marcia Rasmussen and we agreed to change this to the DPW, as they are currently the enforcement entity for the Plastic Bag Reduction bylaw. The Board of Health is being used by the Town of Sudbury (from whom I received the original article language), so it makes complete sense to tailor the language to be consistent with other sustainability measures in town. This change will need to be noted at Town Meeting.

**How would this work in convenience stores?**

So long as the retailer provides a check-out bag with handles, a charge would be imposed – regardless of the type of retailer.

<https://www.boston.gov/departments/environment/understanding-plastic-bag-ordinance>

Consistent with the Boston ordinance, this proposed bylaw would only apply to bags with handles. Bags provided to customers without handles would be exempt (ie, small paper bags at Ace Hardware, plastic

bags for loose produce at Crosby's, etc). Thin-film plastic bags (<2.5 mils in thickness) continue to be banned, as per the Plastic Bag Reduction Bylaw.

<https://www.concordma.gov/DocumentCenter/View/1228/Plastic-Bag-Reduction-Bylaw-PDF>

Thicker "reusable" plastic bags with handles (ie, those distributed by CVS), would be covered under the ordinance and a charge would be imposed.

**Would be check-out bags be considered taxable items.**

Yes, as with the Boston ordinance, the retailer keeps the charge which is subject to Massachusetts sales tax.

**Charge vs. refund**

A question was raised as to whether getting a refund (or bonus) for bringing your reusable bag could also work, instead of charging for a checkout bag. Studies show that a charge (even if nominal) is significantly more effective in changing behavior than providing a refund.

<https://www.brookings.edu/opinions/why-a-bag-tax-works-better-than-a-reusable-bag-bonus/>

**Has the law been created yet for Lincoln and Sudbury?**

The public voted on this same article last year at their respective town meetings. Since then, their Select Boards petitioned the state but no law has yet been created. According to the Surfrider Foundation (who worked closely with these towns to craft their articles), these petitions have been relatively non-controversial at the state level and are moving through the system, but there is currently no timetable they are aware of.

Regards,

Joseph Stein  
21 Thoreau St



# Important Voter Information for Town Election on April 6, 2019

Town of Burlington  
Elections Division  
29 Center St  
Burlington, MA 01803

To the Voters at:

Voting is at the Burlington High School Gym,  
123 Cambridge St.

Polls are open from 8 AM to 8 PM



Information for the Question that will be on the Ballot on April 6th: Question #1: Shall the town vote to have its elected Treasurer/Collector Office become an appointed Treasurer/Collector Office of the town?

**Summary - a Yes vote would mean that you support changing the position to Appointed:**

Last year Burlington's Treasurer/Collector, Brian Curtin, announced his retirement after serving more than 40 years. When he was first elected the town's budget was \$20 million. The budget has grown to \$150 million with increasingly complex rules and regulations.

With the retirement announcement, Burlington has an opportunity to change this position from an elected to an appointed (hired) position. In September 2018, Town Meeting overwhelmingly approved a Warrant article to change this position to be appointed. The Town now needs to affirm that vote.

Burlington, like most Massachusetts municipalities, should make the change to an appointed position. Currently, the number of communities with an appointed Treasurer is 286 of 351 communities.

The only current requirements to be elected Treasurer are to be a resident who is at least 18 years old. The elected requirement limits the job to residents who can run a successful election campaign. As residents, we should require job specific credentials and experience regardless of where the candidate lives.

As an appointed position, there will be relevant job requirements, a rigorous independent search and an interview process. The Board of Selectmen will interview the top candidates in a public session.

With the current Treasurer's planned retirement, this is the time to make this change to ensure Burlington's financial future is managed by a highly qualified professional as required for this role. The process begins with your YES vote to appoint the Treasurer/Collector.

**Summary - a NO vote would mean that you support leaving the position as Elected:**

Consolidation of power managed by a few people is not in the best interest of Burlington.

This position should be kept Elected in order to maintain the checks and balance within a democratic form of government. This provides independent financial advice to all boards of Town government, Town meeting and residents without interference from the Board of Selectmen. By making this position appointed all of the financial oversight such as auditor, budget analyst, and Town accountant would report to the Board of Selectmen.

Currently the Treasurer must answer to the voters directly. Burlington is a highly educated community and there are several residents qualified for this position. Keeping this position elected the candidates would be vetted through an 8 week examination by the voters versus a small committee.

This position has always been an elected position in Burlington answering to the residents who pay the salary of this position.

A charter study recommended and was voted on by Town Meeting in January 24, 1977 to accept the concept of a Town Administrator form of government. That study also recommended a Bylaw change that was voted to change and combine the positions of Treasurer and Tax Collector into one elected position.

The primary responsibility of this position is to collect, invest and manage the 150 million dollars of Town Funds and report to the residents annually.

The residents of the Town deserve the right to vote for this Elected Official concerning the financial oversight and management of their Tax Revenue.



To: Members of the Select Board,

I encourage the Select Board to vote no action on Article 46. This article is:

Premature—a preemptive solution with the wrong type of consultant

Article 46 calls out grading and drainage as part of a solution before a complete needs assessment of the current Reformatory Branch Trails (RBT) is undertaken. A study assessing grading and drainage implies hiring a consultant with civil engineering expertise.

A more appropriate first step would be a comprehensive environmental study of RBT and its surrounding area, assessing sensitive habitats, endangered species and the carbon sequestration of the soil and biomass along the trail. An environmental/sustainability consultant is a best choice for this assessment.

A threat to the Blanding's turtle, an endangered species

As noted by Dr. Bryan Windmiller, an endangered species expert, who has successfully restored the Great Meadows turtle population:

“...I believe that any alteration of the RBT that significantly increases either the volume of human traffic on the trail or, perhaps more significantly, the average velocity of the bicycle traffic on the trail poses a substantial danger to the population restoration project that many, many people in Concord have worked hard to accomplish over nearly 20 years.”

(Page 2 of the attached letter)

US Fish and Wildlife opposed changes (in this case, paving) of RBT in a 1995 biking study due to traffic to Great Meadows. Over 25 years later they are still concerned about traffic and are installing a gate to limit car visitors to the 21 parking spaces on site.

More bike users on RBT may similarly overtax Great Meadows, as there is no practical way to limit bikers who stop to visit the refuge. (See attached press release)

Timed to react to Bedford's paving of their extension of the Minuteman Bikeway

Concord has a long history of careful and thorough analysis of the best stewardship of the town's resources and environment. This article short-circuits this process. We need to step back and consider the big picture before jumping to specific solutions.

Sincerely,  
Ellen Quackenbush  
206 Prairie St

Attachments:

Dr. Bryan Windmiller letter to the Trails Committee, Feb 2022  
US Fish and Wildlife notice for Great Meadows Fee Gate

**From:** Philip Posner  
**Date:** March 15, 2022 at 9:46:33 AM EDT  
**To:** undisclosed-recipients;;  
**Subject:** amendment to Article 46

Folks: After review with the Town Meeting Moderator I'm going to advance the language in the attached document. The purpose is to clarify the intention of the study based on the feedback I've received from the numerous meetings and conversations I've had in the last few weeks. The objective remains the same: (1) hold public forums and conduct and (2) conduct a study of the RBT.

Please let me know if you have concerns or questions. I've been asked by the moderator to submit this language to her by Friday and will be distributing copies of this language at the Town Meeting on May 1.

Thank you again for your support of this idea - please ask your friends and neighbors to attend the Town Meeting and vote to support it.

Best, Phil Posner

--

Best, Phil Posner

Phil Posner  
223 Laws Brook Road #206  
Concord, MA 01742

To see if the Town will vote to appropriate ~~a sum of money not less than~~ Seventy-five Thousand and 00/00 Dollars [\$75,000.00] to conduct public forum(s) and a feasibility study or needs assessment to be undertaken by a consulting firm to be selected by the Town Manager or his or her designee, relating to grading and drainage improvements, and relating to the current uses of the trail, natural resource protection, accessibility for persons with mobility challenges, public safety and convenience consistent with the Town's Sustainability Goals on and to the Reformatory Branch Trail, including the section owned by the Natural Resources Commission, the Section owned by the Town of Concord and the section which is a public way ~~and to determine whether~~ the money ~~shall to~~ be provided by the ~~tax levy~~, by transfer from available funds, ~~by borrowing, or by any combination of these methods; or act in any other manner in relation thereto.~~ The funds appropriated shall be administered by the Town Manager or such person or agency as the Town Manager shall designate.

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## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Eastern Massachusetts National Wildlife Refuge Complex

73 Weir Hill Road

Sudbury, MA 01776

978-443-4661



Dear Great Meadows National Wildlife Refuge Concord Unit Visitors,

The purpose of this letter is to inform you of the intent to install a fee collection machine and automated gate at the entrance of Great Meadows National Wildlife Refuge (NWR), located off Monsen Road. The machine will be in operation from sunrise to sunset throughout the year and replaces the existing cash-only fee collection station presently located near the Great Meadows NWR parking lot. The new machine will accept credit cards and all existing entrance passes and methods, including America the Beautiful passes, Refuge Annual passes, Duck Stamps, and more. Installation will occur entirely within the Great Meadows NWR right of way. Utility construction to prepare the site will begin Wednesday, December 1<sup>st</sup>, and conclude Friday, December 17<sup>th</sup>. During this time, the Monsen Road entrance will be inaccessible. The machine and gate system will be installed sometime in early spring 2022. Additional information will be shared when available.

The intent of this project is to reduce vehicle congestion and improve visitor safety. The machine and gate system are equipped with a car counter that will calculate when the lot is full, prompting a Lot Full sign to switch on. Refuge law enforcement will coordinate directly with the Concord police department to mitigate any traffic-related issues in the area.

Refuge personnel will provide additional support and outreach during the transition period when the machine and gate system is installed.

**From:** Bija Satterlee <satterleebija@gmail.com>  
**Sent:** Tuesday, March 22, 2022 12:39 PM  
**To:** Robyn LaFrance; Terri Ackerman; Susan Bates; Henry Dane; Linda Escobedo; Matthew Johnson; mary@maryhartman4concord.com; Delia Kaye  
**Subject:** RBT Concerns - please read and see photos

You don't often get email from satterleebija@gmail.com. [Learn why this is important](#)

Good day to all of you! ***Please read our message to the end. I have highlighted some things for you speed readers ;-)***

We are Bija Satterlee and Franklin Jonath, we live in Concord, and our property abuts the Reformatory Branch Trail, right by the Great Meadows. We are intimately familiar with the daily, weekly, monthly, yearly activity here - NATURE and all its creatures, and HUMAN, and all its traffic that goes by.

**We are passionately opposed to Article 46** Here is why:

- "Doing a study" is a slippery slope to development, arguments for, rationalizing, normalizing the idea of an "improved or widened" trail at some point in the future.
- The slippery slope of incrementalism is at work here - and the creator of Article 46 is collaborating with those in Bedford who want to extend the Minuteman Trail to Concord Center. What's good for Bedford is not in Concord's best interests, but they will use any tool make it seem that way.
- The very fact that the trail is **natural** as it is, makes it **VALUABLE**. An "improved" surface serves what purpose? Primarily it serves higher-speed bikers and more of them, COMPLETELY CHANGING THE NATURE of this natural, peaceful environment of a trail.
- The birds, insects, turtles, foxes, deer, coyote, etc, move over and around the path freely as it is. **EVEN ONE TREE cut down**, widening any part of it, creates a barrier for animals, and disrupts the ecosystem that people and nature currently share peacefully.
- The current path has developed on its own by human foot traffic, it expands and contracts seasonally, depending on the amount of foot traffic. Areas were much wider at the peak of Covid, and is fully hard packed at this point, making it a good trail for nature observation, education, bird watching, peaceful walks in the woods. It meets the needs of those who use it. **INCLUDING BICYCLES.**
- **The nature of the path as it is encourages bikes to go at a safe speed** - which keeps it safer for walkers, dogs, babies. (A wider, harder "de-natured" surface encourages speed)
- Lexington had a bike fatality from high speed bikers.
- **We are also bikers** - and ride to Concord center and up to Bedford routinely. Having it a "dirt trail with character" is what makes it appealing! Do we need to apply the "urban safety treatment" to everything??? Are handrails next?
  
- The dirt nature of the path encourages people to know they are in nature, to respect it, not litter, slow down, say hello as they pass. This feeling and characteristic is decidedly less on "structured engineered" paths.

**WE SUPPORT ARTICLE 47** - As a measure to protect the trail and its natural condition, in any future attempts to develop it. RBT is a GEM in Concord, and needs to be protected.

- **Any development or "improvement" to RBT is incrementalism** - the bikers want the Minuteman Bikeway extended all the way to Concord, and Article 46 is the chipping away strategy they are using. **Article 47 would establish the trail as a valuable nature trail**, maintained for safe use by everyone, but protected from the urbanization and "taming" of nature through tree removal, widening, hardening, straightening, thereby creating a dead zone.

- Paved and "improved" areas lose their sense of Nature and Wonder. **Consider the path around Walden Pond.** It is a dirt path, and people THRIVE on feeling they are in nature. The path has plenty of ups and downs and twists and turns. Shall we do a study to create a wide smooth sidewalk around Walden Pond? It is equally as ludicrous a thought!

- **PROTECTING the RBT from development** is in the best interest of our sensitive environment. There is NO "improvement" that helps Nature other than leaving it alone.

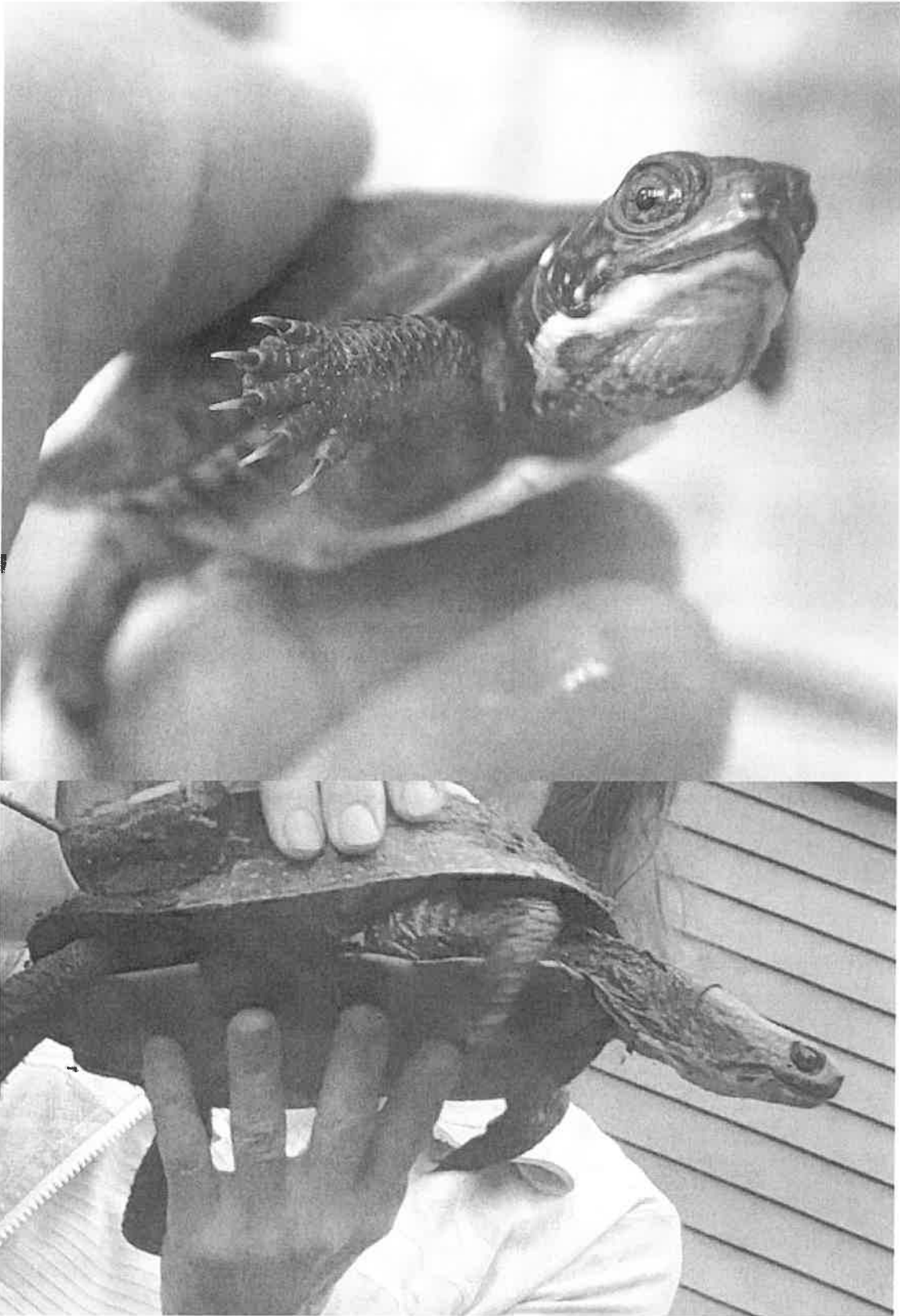
- **PROTECTING the RBT from development** is in the best interest of neighbors, abutters, children growing up in this world where everything is hardened, paved, made "safe", comfortable, accessible. Learning how to walk on a dirt path is more valuable for a child than learning to walk on a structured engineered path. Have you noticed how kids and dogs always try to get off the path into the woods anyway? Because a **"structured" hardened path is "a dead zone"** and would be a wide ribbon from Bedford to Concord, which is DEAD, and brings high speed bikers, whose speed is their whole point, and creates a danger for normal people out walking to enjoy NATURE.

- **PROTECTING the RBT from development preserves property values of abutters.** I am a Realtor, and have listed homes in Lexington that abut the Minuteman Bike Trail. From first hand experience I can tell you: abutters put up high secure fences with locks on them to protect their yards from the high volume of people using the Minuteman Bike Path, and the feeling of exposure. Secondly, Buyers were concerned about the safety of backing up to the bike trail, even though they were happy to USE it, they didnt want to live right ON it. **It discouraged many buyers, it took longer to sell and we felt it decreased the value of the property.**

- **The Endangered Blandings Turtles** and other turtles cross the trail to lay their eggs in the garden beds of this neighborhood. In order to survive, the babies have to make it back to the meadow when they hatch. Any disturbance to the trail will impact their ability to carry this out. I am including a photo of a baby Blanding Turtle that hatched in my front yard last year. And its mom, who is approx 70 years old.

THANK YOU for reading this, and see you at the Town Meetings ;-)

Bija Satterlee and Franklin Jonath



**Bija Satterlee**  
781-354-4835  
L  
eading Edge Real Estate

**Robyn LaFrance**

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**From:** tbartevyan <tbartevyan@yahoo.com>  
**Sent:** Saturday, March 19, 2022 6:53 PM  
**To:** Terri Ackerman; Susan Bates; Henry Dane; Linda Escobedo; Matthew Johnson; Robyn LaFrance  
**Cc:** Kerry Lafleur; Mary Hartman; Mark Gailus; Siragan Gailus  
**Subject:** Please support Article 47 to Preserve the Reformatory Branch Trail

You don't often get email from tbartevyan@yahoo.com. [Learn why this is important](#)

Dear Members of the Concord Select Board,

We ask you to please vote to support Article 47 of the 2022 Town Meeting.

As has been highlighted in many discussions, the trail is a very precious natural resource, as well as one with social benefits to its current multi modal users (in other words, it is nice to see pedestrians, joggers, and cyclists mingle and co-use the trail respectfully of each other.)

So far, the Transportation Advisory Committee and the Commission on Disability have decided to take no position on Article 47 because it is outside of their purview.

Similarly, as you know, the Finance Committee decided to take no position on it, for the same reason. It does not have a financial component.

Article 47 would likely have been heard at a Select Board public hearing, had it not been for its overlap of subject matter with Article 46.

We ask you to please support Article 47, which is a non regulatory recommendation.

Thank you for your consideration.

Mark, Tanya, and Siragan Gailus  
62 Prescott Road

**Robyn LaFrance**

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**Subject:** FW: Board of Registrar's Opening

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**From:** Concord Republican Town Committee <[info@concordmassgop.com](mailto:info@concordmassgop.com)>  
**Sent:** Monday, March 14, 2022 5:47 PM  
**To:** Kaari Tari <[ktari@concordma.gov](mailto:ktari@concordma.gov)>  
**Cc:** [michael j benn@hotmail.com](mailto:michael_j_benn@hotmail.com)  
**Subject:** RE: Board of Registrar's Opening

You don't often get email from [info@concordmassgop.com](mailto:info@concordmassgop.com). [Learn why this is important](#)

Hi Kaari!

Are there any additional steps that I need to take?

Thanks

MJB

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**From:** Concord Republican Town Committee  
**Sent:** Friday, February 18, 2022 10:10 AM  
**To:** Kaari Tari <[ktari@concordma.gov](mailto:ktari@concordma.gov)>  
**Cc:** [blittlef@gmail.com](mailto:blittlef@gmail.com); [barrett.nancy@gmail.com](mailto:barrett.nancy@gmail.com); Michael Benn <[michael\\_j\\_benn@hotmail.com](mailto:michael_j_benn@hotmail.com)>; Wendy McNally <[wmcnally17@gmail.com](mailto:wmcnally17@gmail.com)>  
**Subject:** Board of Registrar's Opening

Hi Kaari!

I understand that Wendy McNally's term on the Board of Registrar's ends next month.

The committee would like to submit the following 3 Republicans for the Select Board to consider for the open Board of Registrars seat:

- 1) **James Bartlett Littlefield**
- 2) Nancy C Barrett
- 3) Michael J Benn

We are submitting three names in keeping with MGL 51:15. Please let the Board know that **the committee's preferred candidate is James Bartlett Littlefield**. We believe that he is dedicated, and well-qualified for the duties of the Board, and has the time and is well positioned to serve a full term.

Please let me know what are the next steps that need to be taken to ensure that Bart is appointed in time to prevent a gap in coverage.

As always, I appreciate all that you do for the Town of Concord, and for how responsive you have always been when I have had a need!

Thanks again for everything. Please let me know if you have any questions.

Best,

Michael J Benn  
Chair – Concord Republican Town Committee  
978-835-9638

**From:** Kate Hodges  
**Sent:** Tuesday, March 15, 2022 12:36 PM  
**To:** SelectBoard  
**Cc:** SMT; Delia Kaye  
**Subject:** FW: White Pond Meeting Minutes- March 11, 2022

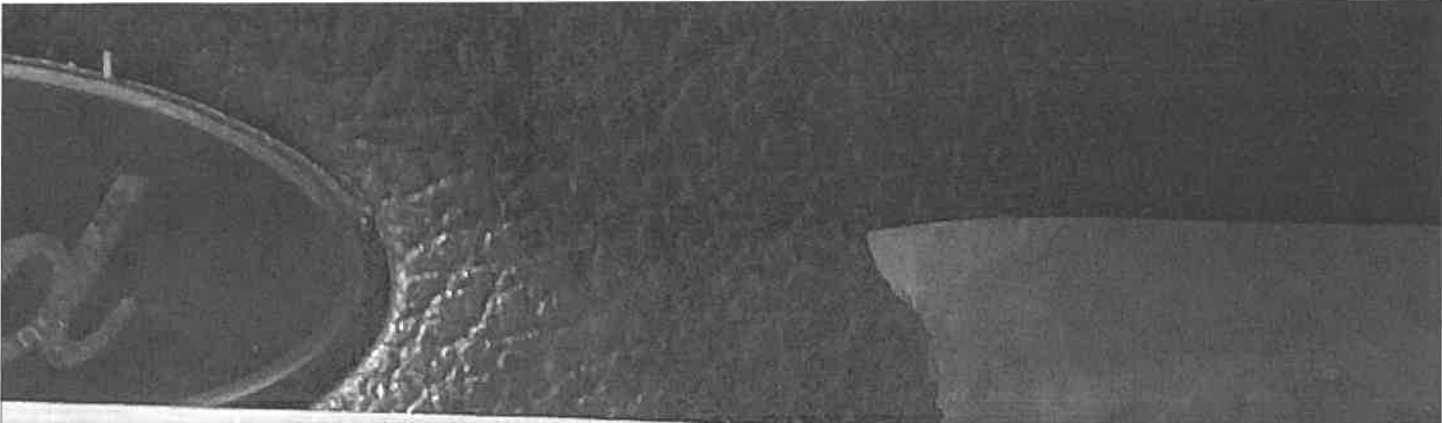
Dear Select Board,

I am bringing the following to your attention in the absence of Kerry. This is one of MANY notes that have been placed at the White Pond Park site. Almost daily, contractors, NRC staff and I have been pulling papers like this off of signage on site. Last week's iterations actually called Delia Kaye and I out *personally* and went into a bit more detail about how we should be "thanked." We have notified the Police, of course, but also wanted to make you aware.

As an aside, the type of continued harassment and constant insults to the character of both town staff and contractors makes Concord look band and, more importantly, does not make this a welcoming community by any means. I think it may be time to consider a statement made at the SB level indicating that we are doing our jobs and the boards and committees are working with us to follow through on the will of town meeting and the community at large, not simply the few who cannot see the forest through the trees (no pun intended)

Thanks.

Kate Hodges, ICMA-CM  
Deputy Town Manager  
Town of Concord, Massachusetts  
[www.concordma.gov](http://www.concordma.gov)



The Natural Resource  
town of Concord is wo  
developers so that thi  
down, natural root sys  
natural bird habitats r  
discussions” with the

March 12, 2022

Dear Chief O'Connor, Interim Town Manager Lafleur, Members of the Select Board, and Public Information and Communications Manager Stevens,

This morning I (Brooks) noticed that a sign posted on our private property, on the Estabrook Trail, had been forcibly removed from a tree and transported to a location about 15 feet away. The photo below shows the sign's mounting screws on the tree where the sign had been, with the back of the removed sign visible by the stone wall where it was found by me this morning:



The mounting holes for the sign had been made large enough that the sign could be pried off without removing the screws. I have remounted the sign using smaller mounting holes, which will not allow the sign to be removed without removing or breaking the mounting screws:

