Approved 5.4.2020

Town of Concord
Finance Committee
Meeting Minutes - March 5, 2020

Present: Dean Banfield, Peter Fischelis, Greg Guarriello, Mary Hartman, John Hickling, Richard Jamison, Dee Ortner, Karle Packard, Parashar Patel, Christine Reynolds, Brian Taylor, Thomas Tarpey and Andrea Zall

Absent: Wade Rubinstein and Phil Swain

Others Present: Select Board Chair Mike Lawson; Select Board Members Susan Bates & Terri Ackerman; Town Manager Stephen Crane; Retirement Board Chair Peter Fulton; Tax Fairness Committee Chair David Karr; Managing Director of Grantham Group Walter Ohanian; Director of Development of Grantham Group Michael Cucchiara; Concord Finance Director Kerry Lafleur; Director of RHSO Liz Rust; Resident Henry Dane; LWV Members Karlen Reed and Stephan Bader; Recording Secretary Anita Tekle

Meeting Opened

Mr. Banfield called the meeting to order in the Select Board (SB) Meeting Room at the Town House at 7:00 pm. He announced that the meeting was being televised and recorded by MMN.

Approval of Minutes

On a **MOTION** made by Mr. Hickling and seconded by Mr. Packard, the minutes of January 23, 2020 were unanimously **APPROVED** as amended (change “LWV Liaison” to “LWV Observer.”)

2020 Annual Town Meeting Warrant Article Review

Article 7–Increase Retirement COLA Base Mr. Fulton explained that Concord is one of 104 Public Employee Retirement Systems in Massachusetts, managed by a five-member board. The oversight agency for all 104 systems is PERAC (Public Employee Retirement Administration Commission). He explained that the annual COLA is currently given to retirees on the first $12,000 of retirement benefit (a maximum increase of $360/year). The COLA has been 3% for many years. Mr. Fulton noted that Article 7 proposes to increase the base on which the COLA is calculated to the first $14,000 of benefit, which would result in a maximum annual increase of $420 ($60 over present). This would result in an estimated budget impact of $350,000/year, per the actuary. He noted that the Concord Retirement System has a funded ratio of 86%, and is on target to be fully funded by 2031 (9 years earlier than required). Of the 104 public retirement systems in Massachusetts, he noted that 30 of them use $12,000 as the COLA base; 24 use $13,000; 26 use $14,000; 8 use $15,000; 7 use $16,000; 5 use $17,000; and 4 use $18,000. Ms. Hartman commented that it would be helpful to know the total COLA amount that is paid by these retirement systems, not just the base. Since a 3% COLA is the maximum allowed by PERAC, it is assumed that some systems pay less than 3%.

> **Follow-Up:** Determine the COLA % increase given by other retirement systems, listed by the base amount.

Ms. Reynolds inquired about the timing–why now? Mr. Fulton responded that retirees have been requesting this for many years, and the base has not been increased for over 20 years. The Retirement board investments have been doing well, until recently. In response to a question from Ms. Ortner about how such a change would impact funding either for the Retirement Fund or OPEB, Ms. Lafleur indicated that Concord is on target to fully fund OPEB a few years earlier than the required 2040. She emphasized the following: (1) the average retirement benefit is $28,000/year; (2) having a well-funded post-retirement benefit program will attract the best employees; (3) public employees in Massachusetts receive little or no social security upon retirement; and (4) employees hired after 7/1/1996 contribute to their retirement per pay period 9% of their covered salary plus 2% of earnings over $30,000. Those hired prior to 7/1/1996 pay a slightly lower rate.

In response to a question about the annual cost, Ms. Lafleur indicated that the actuary came up with an estimated cost of $309,000 (not $350,000), and she will verify the discrepancy.

Follow-Up: Ms. Lafleur will verify the annual cost of Article 7.

<u>Article 13–Affordable Housing Trust</u> Mr. Lawson explained that Article 13 would create a trust to receive the affordable housing funds voted at last year's town meeting. These actions are pending in the state legislature. If those actions are enacted, then any funds raised would be deposited into this Trust. In response to a question raised by Ms. Hartman, Mr. Lawson indicated that the Trustees would decide how the funds would be spent. These decisions would not be made by the Concord Housing Development Corporation (CHDC), which is a private, non-profit entity. Mr. Banfield noted that Concord has several quasi-government entities for housing purposes, the CHDC being one. Mr. Lawson explained that hypothetically the Trust could purchase land or property for affordable housing purposes, and then pass it on to the CHDC to develop. Mr. Banfield commented that he had thought the Trust would hold funds and not real property. It was explained that the Trust would only temporarily hold real property. Ms. Ortner reminded those involved in affordable housing that if CPA funds are transferred into the Trust, then related CPA restrictions go with the funds.

Mr. Lawson indicated that the $500,000 appropriated from free cash last year, and proposed for this year, is under the jurisdiction of the Town Manager. Ms. Rust noted that such funds could flow through the Trust in the future. The mission of the Trust is to develop affordable housing, not to hold onto land. In response to a question, Ms. Rust noted that Trust funds could be used to pay for legal fees associated with affordable housing transactions.

<u>Article 14–Appropriate Funds for Affordable Housing</u> Mr. Lawson explained that this request for $500,000 from free cash is to provide funds on an interim basis for affordable housing, until pending legislation passes. In response to a question, it was noted that about half of last year's $500,000 appropriation has been spent. It was explained that if Article 13 does not pass, then Article 14 would still be moved, but the motion will be changed so that the Town Manager has jurisdiction over the funds. Ms. Hartman expressed concern about using free cash for a recurring expense. Mr. Lawson

responded that it would be a challenge putting this expense into the budget; it is simpler doing it this way since it is a temporary measure.

Article 16–Approval of Tax Increment Financing Agreement (TIF) Ms. Rust reviewed Concord's affordable housing inventory, noting that we are currently 35 units above the minimum 10% required, based on the 2010 federal census. Without the proposed Grantham project, Concord would fall below 10% following the 2020 census, which is anticipated to result in a shortfall of 48-58 units. She noted that the land is deed restricted for affordable housing, and all of the units would be restricted to qualified applicants (no market-rate units). In response to a question from Mr. Tarpey, Ms. Rust noted that 12 responses were received through the Solicitation of Interest process when Grantham was selected. Some of the alternative proposals included larger family units, which would have resulted in a greater impact on municipal and school services. She noted that the proposed project would provide local preference (Concord residents, parents of residents, and Town employees) during the initial leasing period (the maximum that is allowed under state law). Mr. Taylor asked whether the tax credits that were deemed critical to the project three years ago are still needed. Mr. Ohanian responded that the same situation exists today. Ms. Rust noted that the units will not be credited to the Town's affordable housing inventory until a shovel is in the ground.

In response to a question from Mr. Patel, Mr. Ohanian noted that eligibility criteria includes being medically approved for an assisted living facility, and be income-eligible. The rental rate is restricted, based on income. Services are charged separately. Of the 83 units, 43 would be limited to occupants within 60% of the AMI (area median income), and 40 would be limited to occupants within 150% of AMI. Mr. Ohanian explained that the SB's task force recommended in 2017 that a TIF be considered to assist with financing, and this requires town meeting approval. Mr. Ohanian feels that this is now the appropriate time to initiate this option. He noted that an application for the State Economic Development Incentive Program was submitted in February, with a response anticipated by July. In response to a question from Mr. Banfield, Mr. Ohanian noted that housing costs were segregated from resident care services in the pro-forma. As a result, most of the salary costs are provided through the resident care services line on the pro-forma, even though most of the providers would be employees and not outside contractors. A minimum of 30 full time permanent jobs would be created by the project.

Ms. Reynolds noted that a memo between the Town and the developer in 2017 indicated that no additional Town funds would be required, beyond the $2 million allocated at town meeting. Mr. Ohanian commented that the TIF is a request for lowering the taxes, and is not considered funds coming from the Town; he considers this is just less money coming in from a property that is currently not generating any tax revenue for the Town. Mr. Hickling felt that this was a distinction in semantics only, and is still a Town subsidy. Ms. Hartman asked whether the TIF agreement was publicly discussed and fully disclosed at the time the project was proposed. Mr. Ohanian responded "Yes." Mr. Packard noted that he remembered that this was included as an option in the task force's 2016 report. It was noted that the property is estimated to be valued at c. $13 million, with a tax liability of $200,000. This reflects a reduced value, based on the deed restrictions. The request under Article 16 would be to reduce the tax assessment to projections made in the original pro-forma (i.e., $75,000 total, with

$40,000 for property taxes and $35,000 for ground payments). Mr. Ohanian noted that the distribution of the $75,000 between the two entities can be changed, providing that there is a cap of $75,000/year. The request represents a 77% reduction in assessment.

Mr. Banfield noted that state law requires properties to be valued at 100%, based on land and building values. He asked whether the assessment could be increased as the rental income increases. Ms. Lafleur responded that commercial assessments are based on income from the activity taking place in the building, sales, and replacement cost. The business activity taking place can impact the assessed value. A PILOT (payment-in-lieu-of-taxes) agreement would not be valid since Grantham is not a non-profit entity. Mr. Ohanian noted that Grantham is applying for multiple tax credits totaling $7.5 million over 17 years - 2 years during the lease-up period, to be followed by 15 years of occupancy. He noted that the tax credits cannot be claimed until the units are fully leased. In response to a question, he indicated that without a 17-year TIF agreement, Grantham will not proceed with the project. Mr. Ohanian emphasized that Grantham is seeking an assessment level that is consistent with the amount of tax payments originally budgeted for the property; i.e., $75,000/year in total (to be split between the Town (property tax) and the CHDC (ground lease payment).

Mr. Ohanian had provided a letter from auditor CohnReznick indicating that the real estate taxes expensed for six affordable housing projects managed by Grantham Group totaled $206,023 in 2018 and $178,242 in 2017. Mr. Tarpey asked how the equity investors would be realizing their gain. Mr. Ohanian responded that they will receive their funds over a 10-year period, which may be taken 1/10 per year for ten years. Grantham is required to be in compliance for an additional five years, which is why the TIF agreement base would be for 15 years. He noted that there is an asset management fee of $15-$18,000/year. In response to a question from Mr. Tarpey, it was noted that Grantham is an LP (not an LLC). When asked whether Grantham would be willing to share a copy of the LP agreement, Mr. Cucchiara noted that the document is proprietary, due to the tax benefit for the investors. Mr. Cucchiara commented that there is a payment stream; if the cash flow is positive, then the agreement establishes who gets repaid. He noted that there is not a lot of money to be made. He noted that 50% of the services provided would be paid through Medicaid, with low reimbursement rates. In response to a question from Mr. Patel, Mr. Cucchiara noted that the profit margin could not be identified. Mr. Patel asked if an updated copy of the pro-forma for the project could be provided, to which Mr. Cucchiara agreed.

> **Follow-up:** Grantham Group to provide an updated copy of the pro-forma for the project.

In response to a question from Mr. Hickling, Mr. Ohanian noted that he had first met with Concord's Town Appraiser in October 2019. Mr. Hickling noted that this was four years after the RFP. Mr. Ohanian indicated that he had made his property tax liability estimate of $40,000 based on what he was paying in other communities. Mr. Packard commented that the $40,000 was included in the pro-forma, but the perception is that the deal had changed; it was not viewed as a lump sum, but rather a reduction in taxes. Mr. Ohanian did not feel that anything had changed. Ms. Hartman commented that the Finance Committee (FC) was not aware of the TIF or that Grantham would be requesting a tax break when Town funds were approved in 2017. She noted that she had watched the 2017 video from the FC meeting, and no mention was made about additional funds being needed in the future. She felt that was the expectation of most when the vote was taken. Mr. Ohanian indicated that the possibility of a TIF was known by some. Mr. Banfield asked those FC members that were present whether they had familiarity with the Grantham project prior to the past few months; six indicated that they had. He then asked how many understood that future tax relief would be requested; five indicated that they had no knowledge of this possibility. Upon reflection, Mr. Packard indicated that he had some recollection, but not of this magnitude and he felt that the situation had changed. Mr. Banfield then commented that if the FC was not aware of this possibility, then the assumption is that the public was also not aware. He anticipated that voters will not be happy with this new development, and questioned whether there is a way forward for this project.

Mr. Ohanian emphasized that the project brings 83 units of affordable housing to Concord. The project would revitalize a vacant piece of land adjacent to the prison. Ms. Hartman noted that the property abuts the river and is located near the Rail Trail. Mr. Cucchiara noted that under another developer, the same land could be developed into 40 units of family housing, which would have a service impact on the community. Grantham is hoping to work in partnership with the Town.

Mr. Hickling asked whether there is any flexibility to the term of the TIF, perhaps including indexing. Mr. Ohanian responded that the amount of the abatement is capped at $3 million, and rents would be restricted. He noted that the project cannot be refinanced until year 16 of the project (investors exit after 15 years). The project could then be flipped to a limited partner or else could revert to a general partner. Either way, the property would remain affordable. There is a requirement that a minimum of 30 permanent jobs be maintained throughout the life of the project, which is a requirement under the TIF agreement. The project would be decertified if there are fewer than 30 jobs. The limited partnership would then find someone else to manage the property. In response to a question, Mr. Ohanian indicated that Grantham Group would be the property manager, receiving the management fee outlined in the pro-forma (6% of total revenue–estimated at $229,000/year). The Town is considered a lending partner, with no expectation of receiving loan repayments; all other lenders would be paid first. Mr. Banfield commented that not only is the Town giving the project $2 million, but the Town is being asked for considerable tax relief. Mr. Ohanian explained that there is a tax reason for considering the Town as a grantor in a loan, with no expectation of being paid back. This is in order to stretch the limited resources of the project to be managed most efficiently.

Mr. Ohanian provided the following financial information to support the TIF:

	Assessment	**Tax Rate $14.23**	**TIF Exemption (17 years)**	**Total to be Paid/year**
2020 Current Value	$372,400	Exempt Property	N/A	No taxes paid
Base Value, Land	$1,444,200	$20,550.97	0%	$20,550.97
Incremental Value	$12,538,243	$178,419.20	77%	$41,036.37
Personal Property	$1,000,000	$14,230.00	77%	$3,272.90
			Total to Town	$64,860.24
			Total to CHDC	$10,139.76

In response to a question from Ms. Ortner, Mr. Ohanian indicated that Grantham has agreements with other communities; some are in the form of a TIF and others are PILOTs. Some are similar, and some are higher. Ms. Hartman noted that there is a wide range in property values in other communities. Mr. Ohanian responded that some of the other projects include market rate units, along with affordable units. Mr. Ohanian indicated that the average stay in an assisted living facility is 2-1/2 years; the average age is 87 years old; the gender distribution is 75% female and 25% male. He noted that the Mass Health subsidy for services would be approximately $2,400-$2,500 for each of 43 units; and $4,500-$5,000 for each of 40 units. Mr. Banfield noted that resident Dorrie Kehoe had provided the FC with information she obtained by telephone about the taxes paid by Grantham in the eight MA properties they manage. That information indicated that taxes paid by Grantham to the City of Worcester are $170,367. Mr. Ohanian responded that this information is not accurate.

In discussing how to proceed with a recommendation on Article 16, Mr. Banfield suggested that while the FC may be interested in a shorter term for the TIF, that may not be possible given the language of Article 16 is that the TIF would be: "…substantially in the form as is on file with the Town Clerk." Mr. Lawson indicated that the SB has not yet taken a position and voted on the TIF. Mr. Banfield expressed a preference for a term shorter than the proposed 17 years. Mr. Hickling also expressed an interest in changes to the TIF. Mr. Packard commented that previous presentations from Grantham in 2017-18 were cloudy, and many folks consider the request under Article 16 as "coming back to the well." Mr. Ohanian indicated that Grantham has worked on this project since 2013. There is no intention of asking for a relief from building permit fees. In response to a question from Ms. Ortner about what had changed in the past seven years, Mr. Ohanian noted that costs have risen an estimated 8%/year.

Ms. Hartman suggested that the FC separate the two issues under review: (1) doing business with Grantham–communication has been troubling; and (2) Concord's need for affordable housing. Mr. Ohanian noted that this would be Grantham's eighth affordable housing project in the past 20 years, and Grantham has an excellent reputation with working with both the State and with local communities. Mr. Cucchiara noted that the maximum development on the site would be 54,000 s.f. over three floors, which is constrained. He felt that this project gives the Town the "biggest bang for the buck." He noted that mention of a TIF was included in the development agreement with the CHDC. Mr. Banfield responded that the CHDC is not in a position to abate property taxes. Mr. Cucchiara noted that the Town of Scituate provided a subsidy of $84,000/unit for 30 units. Grantham is paying $22,000/year in taxes to Scituate. He noted that the State is looking to affluent communities to provide that level of subsidy in order to realize more affordable units.

Mr. Banfield noted that Grantham is now making its third application to the State for tax credit. Why didn't Grantham make its request to the Town for a TIF three years ago? Mr. Ohanian responded that he did not realize that property taxes on this project would be higher than his $40,000 estimate, based on his experience in other communities. When he was asked by the Dept. of Housing and Community Development to "button up the costs" for the project, he met with Concord's Appraiser and was informed of the estimate. He commented that in his wildest dreams, he never thought they would be so high. Mr. Cucchiara commented that these are studio and 1-bedroom units, and he felt that the proposed assessment is high given the location near the prison.

In response to a question from Mr. Tarpey, Mr. Ohanian indicated that if Article 16 does not pass, then Grantham will walk away from the project. He would be unable to obtain a mortgage and the investors will drop out. The meeting was then opened to the public for comments.

Susan Bates, a member of the SB but speaking for herself, questioned how the TIF agreement could be locked in as on file with the Town Clerk, given that the SB has not seen or considered the draft. She felt that the TIF is a surprise request, noting that the first time that a number was attached to the tax relief ($1.8 million) only a couple of months ago. Resident Henry Dane suggested that if the Town wishes to see the "other side" of the project, then the document that was presented to the investors would be helpful to see. He inquired whether the assisted living criteria would also be age restricted, noting that some people needing assisted living are younger, and families could be included. He also commented that if all 83 units are occupied by elderly residents, then the need for a new fire station in West Concord would be accelerated. The capital investment burden to the Town would be substantial. Mr. Ohanian responded that the property would be restricted to those 62 years of age or older.

Peter Fulton, an abutter to the property, noted that the neighbors have been requesting an alternative access to the property for emergency vehicles. He noted that the call volume for the Fire Department at Concord Park (an assisted living facility) is immense. Neighbors requested that a service entrance be created parallel to the bike path, which was ignored. He asked that service vehicles be required to access the property from a road other than Winthrop Street. Mr. Taylor asked why Grantham is confident that it will be granted its request for tax credits this year. Mr. Ohanian responded that he had a conversation with the state officials last year and was told that the State is interested in rewarding Concord for its financial commitment to the project. Mr. Taylor asked whether Grantham would come back in the future for a change in the TIF, if operating costs were to increase. Mr. Ohanian said "No."

Article 15–Authorize Special Legislation, Senior Means-Tested Property Tax Exemption
Mr. Karr explained that last year 44 applications were approved, totaling $144,028. The initial legislation had a 3-year sunset clause. This article proposes to make the exemption permanent. Article 15 also provides for administrative changes to simplify calculations for eligibility; the circuit breaker language is replaced with gross income. He noted that the Moderator has determined that the proposed motion is within the scope of the original article. Mr. Karr agreed to send the revised motion to Ms. Lafleur for distribution to the FC. In response to a question from Mr. Banfield about the decrease in recipients this year, Mr. Karr indicated that the Assessors have been diligent about outreach and in verifying asset limits and other eligibility criteria. In response to a question from Ms. Reynolds about original estimates of the number of recipients, Mr. Karr noted that estimates were based on the number of residents receiving circuit breaker benefits. The program is capped at 0.5% of total tax revenue, and we are currently well below that number. Mr. Hickling noted that he observes this committee, and he suggested that some residents would benefit from having an advocate working on their behalf, such as a son/daughter. He also suggested that more

outreach be done. Mr. Guarriello asked how many applications were denied, to which Mr. Karr responded about six.

Final Review of FY21 Guidelines
Ms. Lafleur presented a recap of revenue and expenditures since the guideline was finalized on December 5. Estimates of revenue and expenses for FY21 have increased by $195,279, including the School Committee's (SC) voted CPS budget, which is $97,711 above the guideline. She noted that this amount is what is included in the Warrant. She also noted that the final guideline included an estimated $200,000 for the COLA adjustment for retirees, but the most recent actuary estimate is $309,000, which will result in an additional non-guideline appropriation of $109,000. The estimated property tax impact is an increase of 3.16% on the existing base, not including new growth. She has not adjusted projected state aid, since those numbers are not finalized. If the final numbers are higher than estimated, then that will be used to lower the tax rate. In response to question about the Governor's estimated increase in state revenue, Ms. Lafleur noted that the revenue estimate was made in December. The Governor's supplementary budget will make adjustments if needed.

Mr. Banfield asked the FC if there was any interest in increasing the guideline to match the SC's requested budget. Mr. Hickling noted that the Town is transferring pre-school tuition revenues to the new CPS revolving fund, which will lower revenue to the General Fund. This represents approximately $140,000 in CPS revenue that was not considered when establishing the guideline. The consensus was to not make any changes to the guideline.

Five-Year Projection of Real Estate Taxes
Mr. Banfield asked FC members to provide high/low/mean estimates for budget increases for the budget entities over the next five years. He will then remove the high and low numbers, and come up with an improved model. He noted that past performance has not been a good indicator of future results. The FC is charged with producing for the community its best estimate of future tax growth. Mr. Crane commented that it would be helpful if the projections were segregated for operating costs vs. excluded debt costs. He felt that this distinction is important. He also noted that Concord's property values have a lot to do with taxation; property value changes over the upcoming five years should be included in the metrics. He suggested that the curve projections would be enhanced by providing these two separate lines–operating budget increases and excluded debt cost increases.

Chair's Report
Mr. Banfield reported that the Regional SC is working on its parking proposal. He attended the Peabody Forum on the proposed middle school. There is an interest in assuring that athletic facilities are balanced with spaces for the arts and performance in the new building. There is also a strong interest in providing universal access design. The SC will be requesting a call for a fall special town meeting. Mr. Crane commented that the SB is leaning towards including the middle school debt exclusion vote on the November 2020 state ballot in order to maximize voter participation.

Observer Reports

Ms. Ortner reported that the Capital Project Task Force has scheduled a hearing for March 18. The group has adjusted the terms for defining a very large capital project to include either a project of $5 million or a multi-phased project that adds up to $5 million. When asked how many projects of that magnitude are scheduled, Mr. Crane responded that the new middle school is the only school project over $5 million, and that would be followed by several large Town projects. Mr. Guarriello asked how the $5 million threshold was reached, and Ms. Ortner responded that the task force is trying to be responsive to its charge by first defining a very large project in monetary terms. An attempt to reduce the threshold to $3 million was not successful.

Ms. Zall reported that the 2229 Main Street Committee is exploring future use of the property site. The cleanup of the site cannot begin until the eventual usage is determined. Three plans have been developed, including some housing options.

Mr. Taylor reported that the Library Committee continues to negotiate with the plaintiffs in the lawsuit, and some progress has been made.

Correspondence

Mr. Banfield reported receipt of correspondence from Dorrie Kehoe about taxes paid by Grantham. He also noted receipt of a thank you note in response to Mr. Patel's memo on the proposed development of 1440 Main Street.

Adjournment

The meeting adjourned at 10:22 pm.

Respectfully submitted,

Anita S. Tekle
Recording Secretary

Documents Used or Referenced at Meeting:

- Listing of Articles to be heard at the March 9 Finance Committee hearing
- Copy of January 17, 2020 Finance Committee memo on the final budget guideline
- Email from Dorrie Kehoe about the Grantham Project (dated 2.21.2020)
- Memo from Dorrie Kehoe with tax information from other Grantham projects (dated 2.3.2020)
- Email from Town Planner Elizabeth Hughes and attachment from Symes Development regarding the proposed development of the 1440 Main Street project
- FY21 Five-Year Projection of Real Estate Taxes–Committee Estimates (dated 3.5.2020)
- Recap of FY21 Revenue & Expense Estimates since Final Guideline
- Draft Tax Increment Financing Agreement between Town and Junction Village LP
- DOR Division of Local Services Informational Guideline on Property Exemptions to Promote Affordable Housing, etc. (December 2019)
- Proposed Public Hearing Presentations by FC on Articles 3 (Meeting Procedure) and 8 (Use of Free Cash)
- Copy of Letter from CohnReznick (auditor) to Walter Ohanian about real estate taxes paid
- Copy of Final Report of Junction Village Funding Advisory Committee (dated April 22, 2016)
- Copy of MGL Ch. 40, Sect. 59: Tax Increment Financing Plan (TIF)
- Memo on TIF Process Notes prepared by Liz Rust, Director Regional Housing Services Office