

**Town of Concord
Finance Committee
Public Hearing Minutes
May 4, 2020**

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

Absent: Richard Jamison

Others Present: Finance Director Kerry Lafleur and about 32 Public Officials and Members of the Public, some as noted below

Public Hearing Opened

Mr. Banfield called the public hearing to order at 7:05 pm via Zoom and broadcast via MMN. He explained the Rules of Engagement, which require all votes to be taken by roll call vote. He explained that when the time comes, he will call for a vote and ask for audible votes by Finance Committee (FC) members.

Remarks from Town Moderator Carmin Reiss

Ms. Reiss reported that the Annual Town Meeting (ATM) originally scheduled to start on April 27 has been recessed and continued to May 30. She anticipates that the ATM will be further recessed until June 22. She noted that the Town is operating on the assumption that the ATM will begin on June 22, although it will not be conducted in the usual manner. If the ATM cannot be held by June 30, then state law provides for the Town to continue to operate on 1/12 of the previous year's annual budget until the ATM can be safely held. She confirmed that she will not hold the ATM if doing so is not conducive to public health. She has prepared a memo with options for the meeting. She noted that over 300 towns in Massachusetts are similarly wrestling with this issue, and she is staying abreast of the changing situation.

Public Hearing on Warrant Articles

Article 44–Community Preservation Committee (CPC) Appropriation Recommendations
CPC Chair John Cratsley introduced Vice Chair Tom Kearns and staff member Heather Gill. He noted that Town Counsel Mina Makarious and other CPC members were on the call, along with several of the applicants. He provided a brief summary of the use of CPC funds in Concord. The recommended distribution of funds in FY21 is as follows, by category:

Category	FY21 Recommendation
Community Housing	\$320,000
Recreation	\$730,777
Historic Preservation	\$250,000
Open Space	\$619,223
Administration	\$40,000
Total	\$1,960,000

Mr. Cratsley asked if the two appropriations involving church properties could be considered first, to accommodate Town Counsel's schedule. Mr. Makarios summarized his February 2020 legal opinion that the two projects (First Parish Church (FPC)—Restoration and Repaint and Gild Belfry; Holy Family Parish (HFP)—Parish Rectory Roof Replacement) could survive a "Kaplan challenge," which concerns the separation of church and state. He noted that lots of private projects have been funded with CPC funds, including in Concord. After reviewing the applications for both churches, he concluded that both projects are eligible for funding. He noted that he had looked at them in light of the recent court case for the Town of Acton (Kaplan case). The Kaplan "test" involves three questions: (1) Is the purpose of the funds to aid a private church? (2) Is the aid substantial to the church's mission? (3) Does it entangle the separation of church and state (entanglement clause)?

Question 1. For the FPC, the funds are intended to be used for an historic building, and specifically to repair the Town-owned clock that is in the tower. Funding for HFP is intended to be used to repair the historic roof. Mr. Makarios remarked that it is clear that the intention of both of these projects is not to aid any religious aspects of the building.

Question 2. The requested funds for HFP are to be used exclusively for the historic roof repairs.

Question 3. Mr. Makarios noted that the CPC is a discretionary grant program. The Massachusetts Supreme Judicial Court ruled that a church cannot be disqualified from applying for CPC funds, and the Town cannot treat church applicants differently from non-religious applicants, providing that the use of the funds is not for religious purposes. He feels that it is clear that these buildings are being funded due to the historic nature of the properties.

Mr. Hickling asked whether "withstanding a challenge" means that the Town would win a lawsuit. Mr. Makarios responded that if a lawsuit were to be brought, then the Town would prevail. Mr. Hickling was concerned that the Town would risk being opened to a lawsuit. Mr. Banfield noted that CPC funds would be used for exterior repairs to these historic projects. Mr. Banfield questioned whether the rectory building would be open to the public. Mr. Makarios responded that the application indicated that the public meeting rooms in the former rectory building would be open to a variety of groups, and not just church-related uses. Mr. Banfield commented that he would like to see that public access is non-discriminatory, noting that he has concerns about the Catholic Church having its own agenda. Mr. Banfield asked whether private homes on Lexington Road, which is in the Historic Districts, could apply for CPC funds for restoration. Mr. Makarios responded that any private party that received CPC funding would be required to retain that historic protection in perpetuity. He was not sure whether groups that are not non-profit would be eligible to apply.

Mr. Cratsley responded that HFP's supplement to its application clarified that use of the properties is currently offered to 6-7 organizations. The rectory renovation would provide enhanced space for more public use. Mr. Banfield suggested that the Catholic Church would say no to requests from some private groups. Mr. Cratsley responded that the CPC conducted a very thorough review of all the applications, including a site visit, a

public hearing, and Town Counsel review. He did not feel that fear of litigation is a proper reason to recommend a “No” vote. The CPC’s view is that these are worthwhile historic preservation projects, and he asked that the projects move forward based on their merits.

Ms. Hartman asked who would pay the legal fees if the projects are challenged. Mr. Cratsley indicated that he assumes that these costs would be paid from the Town’s legal services budget. The CPC itself does not have funds available for legal costs. Ms. Lafleur confirmed that department budget lines are charged for legal fees only in very limited situations. Mr. Packard noted that the Town applied to the CPC for funds to replace a slate roof on a Town building. Funds were denied, and the Town chose to replace the roof with asphalt shingles since slate materials were so much more expensive. He asked whether HFP would choose to do the same if funding is denied. Ms. Gill responded that the applicant has received a Certificate of Appropriateness from the Historic Districts Commission for the roof replacement, with certification that the roof materials will be in kind.

Ms. Ortnier inquired about the state match, which is estimated to be lower next year. Ms. Gill responded that the Town already has funding available for the projects under Article 44. Mr. Cratsley indicated that there is a possibility of a formula change for next year, but the Town has funds in hand for the FY21 appropriations. Ms. Zall asked whether groups that use HFP’s facilities are charged a rental fee. Mr. Cratsley responded that there is no requirement that a church building provide free use of its space; however, HFP indicated in its application that it does not charge private organizations for use of its facilities. Ms. Hartman asked whether private groups use the rectory building, or other parish properties. Ms. Gill responded that the parish has three properties, and renovation of the rectory will provide a more handicapped accessible building to its offerings. Ms. Reynolds noted that the priests no longer reside in the rectory—the priests have moved to the rectory in Carlisle. Mr. Makarious was thanked for his attendance and left the meeting at this point.

Mr. Cratsley summarized the remaining CPA recommended projects, as follows:

Project	Category	Amount	Comments
Buttrick House Gardens Landscape Rehabilitation	Historic Preservation	\$100,000	Funds to be used to improve the appearance and safety of the grounds & pathways
Concord Housing Authority Commonwealth Ave Project	Community Housing	\$300,000	Funds to be used to construct a new 2-BR home at the edge of the Gerow property
Regional Housing Services Program	Community Housing	\$20,000	Concord’s share of funding to support staffing the regional housing services program (additional \$20,000 in Town budget)
Gerow Park Improvements—Phase 1	Open Space Recreation	\$500,000	Construction of composting toilet facility & trails near Bruce Freeman Rail Trail; first part of improvements; located on upper ridge land (not near water); requesting additional \$600,000 from FY21 Town Capital Budget; CPC funds used for bathrooms & trails; Kate Hodges indicated that Town funds would be used to renovate the lower part of the property, near the water; some Recreation Revolving funds would be used to

			make accessible improvements; everything now shown on plan can be accomplished in Phase 1a and 1b
Warner's Pond Dredging Project	Open Space Recreation	\$500,000	Dredging of selected target areas; some of funds will be banked for future work
Assabet River Pedestrian Bridge Construction	Open Space Recreation	\$250,000	Funds to be used to prepare drawings and permitting for this pedestrian bridge, adjacent to the RR bridge; Marcia Rasmussen indicated that she has had preliminary conversations with Mass DOT about their funding some of the construction costs for the bridge; current owner of 300 Baker Ave also in conversation about donating some construction funds
Accessible Outdoor Oasis Recreation Park at Minute Man Arc	Recreation	\$100,000	Funds to be used to construct an accessible park at Minuteman Arc's property; park would be open to the public
Staff & Technical Support	Administration	\$40,000	Staff support, legal fees, technical costs, and consulting services

Ms. Ortner noted that between funds requested in Article 11 (capital projects) and Article 44 (CPC), there is a total of \$2.1 million requested in FY21 for Gerow & Warner's Pond. She asked how much funding will be requested for this site over the next five years. Ms. Hodges responded that there are no plans to make Warner's Pond a swimming area at this time, since the White's Pond beach property was acquired by the Town. She noted that in FY20, \$700,000 in funding was appropriated for the Gerow project. Depending on the results of bidding, she anticipates that everything shown in the current plan for the project, including the kayak launch area, could be accomplished with the available \$1.7 million (from FY20 appropriations and FY21 anticipated appropriations). Ms. Hartman commented on the thorough feedback received from the survey that was conducted, noting that there is considerable interest in open space and trails at the Gerow property (not hardscape). She asked from where the funds for construction of the dock would come. Ms. Hodges indicated that she believes there are sufficient funds in the Town capital article.

Ms. Rasmussen responded to Ms. Ortner's question, indicating that the \$500,000 for Warner's Pond dredging is only the beginning of the estimated \$3 million cost to dredge the pond. The plan is to dredge approximately 9 acres (out of 52 acres of the pond), so that the pond could be used for boating, fishing, kayaking and ice skating. FY21 would be the first year of several requests for this project. Mr. Rubinstein noted that there is \$500,000 for Warner's Pond dredging under Article 11 (Town capital projects). Ms. Rasmussen anticipates that the FY22 budget will include \$500,000 for this project from CPC funds and \$1.5 million from Town capital funds.

Resident Dorrie Kehoe commented that when the acquisition of the Gerow land was proposed at the 2018 ATM, it was presented primarily as a swimming facility. She asked where the project is headed, noting that most of the pond is not deep enough for swimming. She noted that many of the current proposed uses were not in the vision for the property when it was acquired. Resident Matt Johnson asked whether consideration is being given to both the near and long-term financial impact of COVID-19 on the Town's finances. He suggested that the Town consider saving some of the CPC funds for next year, with the idea that some projects would be deferred. He noted that the state

match for CPC funding is likely to decrease next year. Mr. Cratsley responded that the CPC has not heard any sentiment to change its recommendations for Article 44 under the current climate, noting that most of the applicants need the funds for this year. Mr. Banfield commented that the FC will be grappling with the capital articles that were presented at a previous hearing, noting that a lot of work is needed to align the recommendations with available funds.

Ms. Hartman noted that the FY21 CPC funding is fairly secure, since the funds are already on hand. She noted that future funding is more questionable. She suggested that funding the Town's capital plan is more vulnerable in the current climate. Mr. Cratsley thanked the FC, staff, Town Counsel, CPC members, and applicants who were in attendance.

Article 24–Minuteman Regional Technical High School District Budget

Superintendent Ed Bouquillon, Director of Finance Robert Gerardi and Concord's Representative to the Regional School Committee Steve Ledoux were present. Mr. Ledoux noted that the new building is open, and there was a banner year for applicants prior to the COVID-19 crisis. Mr. Gerardi commented that both Mr. Ledoux and Ms. Reynolds have been wonderful resources for Minuteman. He noted that the new building was completed one year ahead of schedule, and on budget. Only 14 out-of-district freshmen were admitted due to the high number of in-district applicants. For the first time in many years, the school is fully enrolled. He anticipates that by FY24 Minuteman will be a members-only school. In the past, 30-40% of enrollment was from non-member communities. The FY21 proposed budget is \$20,931,014, exclusive of debt service (6.46% increase over FY20). Debt service for the building project will be \$4,571,932 in FY21. Belmont's departure from the district has impacted all the member communities. The impact on Concord is estimated to be \$103,483. Concord's preliminary FY21 assessment is \$1,213,873 (an increase of \$140,505 over FY20).

In FY20, Concord had 25 enrollees. That number is expected to be 28 in FY21. There were 14 applicants from Concord, and nine students were admitted (all are committed to enroll). With nine member communities in FY21, there are fewer members to share in the capital and operating costs. Mr. Gerardi noted that the FY21 operating budget has increased by 6.9% over FY20, and tuition costs have increased to offset the budget increase. Mr. Banfield expressed concern about the high bar for acceptance, noting that five of Concord's applicants were not admitted. Mr. Bouquillon noted that the fact that only nine were accepted does not mean that five were denied. It's more likely that the other five did not complete the application process.

Ms. Hartman noted that the proposed budget is not very different from what was proposed in February. She inquired whether budget cuts were anticipated, in light of the pandemic and the uncertain financial impact. Mr. Bouquillon responded that if all the member communities have not completed their town meetings by June 30, then the school will go to a 1/12 monthly budget. He has not received any requests or pressure from member communities to decrease the assessment. He anticipates that the state budget will be conservative in terms of revenue estimates, so state aid may be affected. In response to a question from Mr. Banfield, Mr. Bouquillon noted that remote distance learning has been very challenging, due to the high industry standards and competencies demanded from many of the career licensing boards. The school will

begin in the summer to assist students regain any competencies that they have lost during the pandemic. He anticipates that the school will have 30-40 students above the ideal enrollment of 628 in the fall. The fall opening will be staggered. Remote learning for a vocational school is not a sustainable long-term model. He noted that the Dept. of Education's guidelines during the pandemic are not geared towards the unique challenges of vocational schools. There were no public comments or questions.

Article 25—Concord Public School Budget

Article 27—Concord-Carlisle Regional School Budget

Supt. Laurie Hunter and Director of Finance & Administration Jared Stanton were present, along with several School Committee (SC) members. Dr. Hunter noted that the slides for the public hearing were prepared on March 11, and the schools closed on March 12; therefore, the proposed budgets do not reflect the current reality. The School Department (SD) is responsibly and conservatively managing its FY20 budgets, anticipating significant obstacles coming in FY21 and FY22. She noted the major budget drivers of the FY21 budget, and the anticipated cost savings. The proposed FY21 CPS budget at this time is \$40,782,874, which represents an increase of 3.54% over FY20. The FY20 unencumbered balance at 4/13/20 for CPS is \$929,701.

Dr. Hunter reminded the FC that the proposed budget for CCRSD as presented earlier in the year is under the FC guideline. She reviewed the April 15 memo shared with the FC about the status of the FY20 CPS and CCRSD budgets. She noted that staff has been liquidating purchase orders and transferring supply, material, and equipment balances to a contingency line in the 2000 function, and approving new purchase orders on a case-by-case basis. All non-essential spending is frozen. The CCRSD unencumbered FY20 balance as of 4/13/20 is \$826,680. She is projecting a CCRSD FY20 surplus of \$331,849, which will be moved to E&D when FY20 is closed out. This amount is close to the maximum allowed by the State. Dr. Hunter noted that her goal is to build reserves which can offset the budget needs in FY21 and FY22. She anticipates that state revenue will decrease, particularly in the areas of transportation, Ch. 70, and the circuit breaker reimbursement. She suggested that if the maximum is reached in the E&D for the region, then any additional surplus would be put towards the OPEB unfunded liability. Mr. Stanton also noted that the SD is allowed to pre-pay out-of-district special education tuition for up to three months of the upcoming year.

Mr. Banfield noted that the FC will need to wrestle with developing a revised guideline for FY21 budgets. Dr. Hunter agreed that the SD is eager to work collaboratively with the FC. In response to a question from Mr. Patel, Mr. Stanton indicated that a decision about moving any surplus funds to OPEB and/or whether to pre-pay out-of-district tuition will be made by the Regional SC prior to July 1. He also noted that OPEB funds could be used to pay for retiree health insurance costs if funds are running short. Mr. Banfield clarified that town meeting appropriates the bottom line to fund the Regional SD, and the Regional SC votes how to spend the allotted money.

SC Member Wally Johnston noted that the current budget situation is a new experience for all. A joint SC meeting is scheduled for Friday morning. He anticipates that the SC will not make budget decisions in a vacuum, and will work together to do what's best for the students and both communities. Ms. Hartman thanked all participants for their commitment to looking ahead. She asked whether there are increments of expenses to

train teachers or develop technology for a new learning mode. She noted that while Ch. 70 funds are apt to decrease, we also anticipate a significant drop in local receipts. Dr. Hunter noted that the SD is struggling to keep things intact for K-5 students. Staggering the student starting times may increase the need for buses. Additional cleaning will be required. Contingency plans are being developed. In response to a question from Mr. Banfield, Dr. Hunter noted that teachers have been resilient during the pandemic and no long-term substitutes have been needed. Teachers have been working collaboratively and filling in for each other.

In response to a question from Mr. Rubinstein, Mr. Stanton indicated that the SD is providing 30-40 bags of food each day, funded through private donations. The cost has been approximately \$36,000 to date. There is a plan to run the food pick-up service through June 19. Food deliveries are going to Boston to assist Metco students three days/week. Food is available to any resident in need, including seniors. In response to a question from Ms. Reynolds, Dr. Hunter indicated that she does not anticipate extending the school year. Plans are being made for both in-person and remote learning for the summer, with no expansion of offerings from previous years. Some skill development may be built out over the summer. There were no questions or comments from the public.

Article 26—CPS Capital Projects - within the Town Manager’s Capital Budget
Article 28—CCRSD Capital Projects - no motion is anticipated

Article 29—Middle School Stabilization Fund

Mr. Taylor thanked the SD staff for all the work they have done to keep the system going. Dr. Hunter commented that she recognizes that things are different. She noted that the Middle School Building Committee (MSBC) is still meeting, and she urged all to tune into their next meeting. Mr. Banfield noted that it appears that eventually the Town will be ready to build a new middle school, and he suggested that funds should still be set aside from free cash to mitigate the tax impact of the borrowing. Mr. Banfield asked that Mr. Fischelis prepare an observer report for the MSBC so that the FC is aware of the project progress.

Follow-up: Mr. Fischelis to prepare an observer report providing an update for the Middle School Building Committee to the Finance Committee.

Miscellaneous

Mr. Banfield noted that if ATM is held on June 22, then June 8 would be the deadline for mailing the FC Report to residents. He anticipates the FC having to schedule extra meetings in order to complete its work. Select Board (SB) Chair Mike Lawson reminded attendees that the SB is meeting on Thursday at 4 pm. The agenda includes a discussion of town finances. FC members are encouraged to attend. He anticipates having new financial data available at that time, but not much in advance of the meeting. Mr. Lawson indicated that if the ATM is held on June 22, then he anticipates non-urgent items to be deferred to a fall special town meeting. No date has been set for a fall town meeting, and no decision has been made about the timing of a town meeting vote on the new middle school. Resident Matt Johnson noted that while we need a stabilization fund for the middle school, he asked whether the SD is looking at any design changes that may be required if some aspects of online learning remain permanent. Dr. Hunter noted

that there are strengths and weaknesses to online learning. The middle school is in the feasibility phase now, with design elements only at a high level. The current design focuses on collaborative teaching and teams.

Close the Public Hearing

On a **MOTION** made by Mr. Packard and seconded by Ms. Ortner, it was unanimously **VOTED** on a roll call vote, to close the public hearing (with Mr. Taylor, Ms. Reynolds, Mr. Guarriello, Ms. Ortner, Mr. Rubinstein, Mr. Tarpey, Ms. Zall, Ms. Hartman, Mr. Patel, Mr. Hickling, Mr. Packard, Mr. Fischelis, Mr. Swain and Mr. Banfield all voting in the affirmative).

The meeting adjourned at 9:30 pm.

Respectfully submitted,

Anita S. Tekle
Recording Secretary

Documents Used or Referenced at Meeting:

- 2020 Annual Town Meeting Warrant