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October 9, 2012

Thank you for your fast response to my Public Records Request of September 21.

I have found interesting history in the files you sent me.

Selection of OMR Architects

In the minutes of your DSP meeting for the Concord-Carlisle High School project, dated February 15, 2011, Mr. Feldstein made a pointed observation:

"Before beginning the review of the applications for the project, Mr. Feldstein noted his concern regarding the lack of responses received for this approximately \$85 million project. He informed the Panel that he would abstain from voting on this project because it was his opinion that, in considering the firms that applied for the project, only one is eligible for the project. Mr. Feldstein asked if the district would like to comment on the fact that they received only three responses, and the district did not wish to comment."

Also, "Mr. Wexler again raised the issue of the lack of responses, and there was a brief discussion regarding the DSP and its efforts to select the most qualified firm and not simply go along with the district's first choice."

Since then we have found that their instincts were entirely accurate. There should have been 12 to 15 bidders on a premier job like this, but there were not. The firm "chosen", OMR Architects, prepared a deceptive presentation for the November 2011 Town Meetings and got us into the serious budget and design problems that led the MSBA to suspend further funding. As MSBA stated at the August 29 FAS meeting, "there were serious concerns about the professionals hired by the District." OMR still appears to deal in bad faith with the community.

As I have detailed to you in my letters of September 15 and September 18, the problems the Concord community has had with the District have been extreme, leading to angry community meetings and the overwhelming vote in a Special Town Meeting (on April 24) to bar the District from outsourcing school bus transportation for the next year, to set up a Citizens' Transportation Committee to research and propose alternatives to outsourcing busing, and to require more detailed definition when the School Budget is presented for approval each year.

The process the District has followed in planning the new High School is not only "broken", as our Building Committee has admitted to the MSBA and to the community, it also appears to be "dirty" and burdened by apparent conflicts of interest that avoided consideration of a Model School. A number of independent citizens have commented on these problems in the Concord Journal, in the Boston Globe, and in documented files now available on line at:
http://concord-trustingtheprocess.org/conc-list-store/c_list_store.html

My prior correspondence with the MSBA is posted there, too, dated September 20.

On July 25, 2012 I submitted a plan to the MSBA that showed the large distance between the new school and the transportation buildings, nearly 60 yards, and explained that there was no real problem with keeping them. On August 23, 2012, I published that plan as a "Guest Commentary" in the Concord Journal. The Building Committee then promised to evaluate it, but did not do so. Instead, they paid OMR to cook up five elaborate and impractical new plans of their own to accommodate the transportation

buildings, then rejected all those five as too expensive. I reported this new failure by OMR in a letter in the Concord Journal on October 4, page B7, included below as an appendix.

In the OMR DSP Application, page 61, they pledged to the MSBA (with emphasis in the original) that: “We will look at a full range of options and look for ways to save and reuse as many existing buildings as possible.” By persisting in their unnecessary effort to remove and dispose of the existing transportation buildings, OMR is violating their own written pledge to the MSBA in their DSP Application.

Like OMR, the Building Committee still appears to be working in bad faith. They are determined to ignore the expressed will of the community by destroying those buildings. As a result, we looked back through the history of the High School project to learn more about their behavior, and are dismayed by what we found.

As Mr. Feldstein noted, there were only three bidders for this project: OMR Architects, Lavallee Brensinger Architects, and ARCADD, Inc., but only one qualified bidder. Can you tell me why Lavallee Brensinger and ARCADD were not qualified? Was it because of their limited technical capability, or had they created budget problems with other designs? Or because they are out of state?

From the published history of other Model School projects, I understand that about 12 to 15 qualified firms would usually be expected to respond for an \$85 million project.

We have learned that OMR Architects was selected over another firm for the Willard School project in Concord, in 2007, when a close vote was decided by Mr. Jerry Wedge, then Chair of the Building Committee, and another gentleman who had both previously recused themselves from the selection process because of earlier work with OMR. According to the Willard School Building Committee meeting minutes of December 20, 2006:

“Mr. Wedge said that he had filed a ‘Disclosure of Appearance of Conflict of Interest’ with the (Concord) Town Clerk stating that he worked for The Office of Michael Rosenfeld from 1993 - 1999. He has no financial interest in the firm and has not been paid in any way by the firm since he left. He is filing this disclosure because The Office of Michael Rosenfeld has submitted a proposal for designer services.”

But Mr. Wedge still cast the final tie-breaking vote that selected OMR to design the Willard School. In hindsight I am surprised that the losing firm, Ai3, did not then sue Concord for this unseemly process. Mr. Wedge’s decision may have cost Concord \$10 million, in that OMR did not follow the draft MSBA rules and Concord was then ineligible to receive reimbursement. Despite this lapse, Mr. Wedge told the community that state reimbursement was likely, and the District continues to request it from you.

When the new High School project was proposed four years later, Ai3 and all the other qualified firms understandably refused to respond. Appearances matter. Perhaps this dubious background answers Mr. Feldstein’s question about why there was only one single qualified bidder.

In the OMR DSP Application (page 65) there is a “Certification of Non-Collusion” that fails to mention the firm’s prior association with Mr. Wedge, nor whether that history has been properly ignored in their selection for this high school project. I do not know whether Mr. Wedge, again chair of the Building Committee, ever filed a personal “Disclosure of Appearance of Conflict of Interest” with the MSBA. Mr. Wedge did not recuse himself, but voted again for selecting OMR at the DSP meeting on February 15, 2011, along with Louis Salemy and Diana Rigby from the District.

Costs Not Revealed in the PFA

Many additional site costs were known and anticipated by the Building Committee, but were also hidden from the community, from the MSBA, and missing from the PFA budget. These include the presence of a pre-1950 landfill that will now require extra costs to remediate. The existence of a landfill problem was specifically denied in the District’s SOI, and was denied again in the OMR executed contract, page 42, where it states, “The soil conditions are excellent throughout the site.” Other concealed costs included

replacement of destroyed transportation buildings, replacement of destroyed tennis courts, replacement of a destroyed JV athletic field, and costs for walkway paving, decorative plantings, and other design needs that were supposedly "deleted" from the project budget during Value Engineering. These amounts are too large to be covered by the contingency funds, but will have to be paid later through supplemental requests or in maintenance budgets. These financial manipulations appear to be a direct breach of the PFA Section 3, Covenant 3.5, and violations of 963 CMR 2:03(2)(m), 2:05(2), and 2.19.

The Model School Option that was Ignored

Between our recent discussions I read the article in the Sunday Globe, (Globe West section, page 4, of September 2) that described the excellent new Natick High School, built to the same Model Design as Norwood's and North Plymouth's. I then realized that Concord-Carlisle could have saved as much as \$23 million of our tax money by applying for your Model School Program, and could get a significantly better school. This difference is so large that it can easily cover all of the sunk costs so far, and more, if we now correct our path from the beginning.

I now understand that the strange site choice made without discussion or explanation by our Building Committee on June 15, 2011, was possibly intended to force us to use a custom design, rather than a Model Design. The minutes of that meeting recorded several weak reasons for the site choice. But in a later presentation (on September 12, 2012), OMR replaced those "reasons" with two entirely new and different excuses. There is no mention anywhere in the recorded minutes or public records of any of the Building Committee or School Committee meetings of applying for the MSBA Model School Program. That opportunity was overlooked or deliberately avoided. The Project Manager KVA signed on in November, 2010, and reported in a letter of response received September 24, 2012, that:

“From our memory, we vaguely recall hearing that the committee did perform due diligence regarding the viability of a model school prior to the procurement of the OPM. However, due to various factors it wasn't pursued. I assume the factors may have been: there were a limited amount of model schools designs approved and available at the time, these designs may not have fit the enrollment, site or educational program at CCHS. Remember the intent of the model program is to “punk and dunk” the design onto a site with little to no modifications. From our past school experience in pursuing other work we typically see a reference in the request for services (“RFS”) that the District is considering a model school. KVA doesn't recall seeing this reference back in the fall of 2010. At the conclusion of the feasibility phase when a new school was deemed as the best solution, the model school program was briefly discussed. But, after the conclusion of the feasibility study it was clear that a model school wouldn't have fit on the site unless considered on the football field.”

In reviewing the feasibility studies conducted by other districts, it is clear that KVA had a responsibility to engage in the dialogue so the taxpayers funding this new school could be assured that their tax dollars would be wisely spent to build the best high school for the money. We are still waiting to hear from the DEP about their requirements for remediation of the old landfill, to learn how much extra money will be needed from Concord and Carlisle. Yet no one appears to be pushing the DEP to offer guidance. Now OMR wants to separate the landfill remediation from the building project, although it is part of the same site and is directly related to the new construction, and OMR failed to take soil borings early enough to explore and evaluate this known hazard. The DEP landfill problem may still derail this construction.

In view of these serious problems and contract violations I do not imagine that MSBA will simply resume CCRHS funding. Many citizens would like to re-start this project with an application for a Model School. We need a real evaluation of the site, and we need competitive responses from more than one architectural firm. We feel deceived that we voted last November to fund a school based on a deceptive design and budget presentation, a budget problem of more than \$7 million with even higher expected costs, and are now going to get a much diminished version of it but face even more expenses.

Replacement of the existing high school is necessary and is wanted by the community, but it is not sufficiently urgent to continue this still “broken” process with no effort in sight to resolve the impasse. I cannot force the Eligible Applicant to ask you for a Model School, but you have the authority to make this

happen. Please strongly advise the present Eligible Applicant to discharge OMR and/or KVA, or establish some new supervisory structure in which you will reinstate funding under required conditions, including a legitimate feasibility study of a Model School by a person independent of Concord or of the present Building or School Committee. This way, the community can have confidence that resumption of funding is not another effort by the District to alter reality to fit their present plans, as just happened when they wasted \$50,000 to “evaluate” my proposal to solve the Transportation facility problem. Without a change in leadership there is real doubt that this construction project can be properly completed.

There is a lot of pressure in Town now, so a calculation of what the community could save or be reimbursed by going to a Model School would confirm that citizens asking these questions are trying to save \$10 to \$20 million from our taxes. That will be more than enough to pay for remediating the old landfill.

The School Committee and the Building Committee repeatedly tell the community that “we will lose our priority for funding and the opportunity to be reimbursed \$28 million if we don’t build this design right now”. If the MSBA does not support that view, it will help the community to suggest that “if the District will successfully apply for a Model School, there will be an opportunity to build a better school for a lower cost.”

With best regards,

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Appendix

This letter was published in the Concord Journal, October 4, 2012, pages B7-8:

Plan wasn't properly evaluated

To the Editor:

On August 23 I showed how we can build the new high school exactly where the Building Committee decided to put it, but still keep the transportation buildings in use where they are, as Concord decidedly wants. After my plan was published on page A10 of the Concord Journal, I provided a lot of additional site grading information to the Building Committee. They promised to evaluate it, and voted \$50,000 for the purpose.

The Building Committee has been telling the Finance Committee and others that they have now evaluated my design. They did not.

On Sept. 12 I first saw what the Building Committee had done. They assigned that job back to OMR Architects! Then OMR cooked up five different, much more expensive, designs of their own. The cheapest option they could think of would cost \$2,174,424, or about the same cost as rebuilding the bus facility.

A licensed landscape architect with school-siting experience priced out my plan. His cost, when rounded up, is only \$200,000. That is less than 1/10 of the OMR cost.

Why the big difference? OMR's cheapest option still includes items that will be needed for all the designs, even their own present one, such as a new parking lot somewhere to hold the buses. They made other expensive design errors, all detailed in my study, "A Citizen's Report Card", that I sent to the MSBA. I also posted it on September 20 for easy public access at <http://tinyurl.com/8V3CRYN>.

If they are willing to work in good faith, the Building Committee can still correct the unnecessary defect in their present road design to clear the bus facility. Or have they now shown us that they still don't want to?

William T. Plummer, Arena Terrace