

Board: Select Board / Water Commissioner's Meeting
Date: Monday, August 01, 2022
Location: Senior & Community Center, 1 Care Drive, Erving, MA 01344

Select Board Present: Jacob Smith, William Bembury
Also, Present: Bryan Smith, Mariah Kurtz, Mark Blatchley, Richard Newton, Kelly Loynd, James Loynd
Press: Otis Wheeler, BNCTV; Julian Mendoza, Greenfield Recorder

At 6:32 PM **Chairman Smith** called the meeting to order.

Discussion Regarding Town Response to COVID-19

The Select Board members reviewed the recent update related to COVID-19 counts in Franklin County. **Chairman Smith** noted that Erving had reports of two (2) new counts in the past week and no counts reported the week before. **Chairman Smith** discussed exploring a possible opportunity to test wastewater for COVID-19, noting that the Wastewater Department is exploring with the opportunity with the State. **Selectman Bembury** asked about the testing and what the data could demonstrate. **Chairman Smith** discussed his understanding of the testing add that the prevalence of COVID-19 within a community may correlate with the concentration within the wastewater system. **Selectman Bembury** discussed prevalence for at home testing and expressed concern that some family members are not testing and instead waiting on a close contact to get better before testing themselves. The Town expects to have an update about participating in the program at the next meeting. The Select Board discussed tentatively hosting a vaccination opportunity in Erving in August.

Review of Town Bylaw Codification Project & Editorial Analysis

Richard Newton, Town Clerk, joined the Select Board to review the draft Town Code and proposed responses to the questions presented in the editorial analysis from the vendor. The Select Board members discussed specific questions.

Proposed Noncriminal Disposition of Violations Bylaw

The Select Board reviewed a proposed Bylaw that provides a common structure for how noncriminal disposition penalties could be addressed throughout the Town Code, unless an exception is noted, and a different structure is specified in a particular Bylaw. **Selectman Bembury** discussed general support for the proposed structure but expressed concern that the Town Administrator is listed in subsection C as an enforcing person. Richard discussed the recommendation from General Code. Bryan discussed the recommendation of an enforcement article and noted the that the Select Board can revise the list of enforcement officials. **Chairman Smith** discussed adding the positions of Highway Superintendent and Wastewater Superintendent.

Cemetery Commissioners

The Select Board discussed vendor question posed in 45-004 regarding the appointment of the Cemetery Commissioners. **Selectman Bembury** asked for an explanation of the current provisions. Bryan explained that the current Bylaw creates a three-member Cemetery Commission and identifies the Town Moderator as the appointing authority. Bryan explained that the Bylaw doesn't address the staggering of terms and other authorities. **Selectman Bembury** explained that he would like to have a larger conversation with the Select Board. Bryan discussed the previous review of the Bylaw and noted that a draft of a proposed Bylaw revision had been previously drafted. The Select Board members discussed having a fuller conversation on the revision to the Cemetery Commission structure.

Personnel Relations Board

Chairman Smith highlighted vendor question 9-009 as it relates to the Personnel Relations Review Board. **Chairman Smith** discussed the need to address the future the Personnel Relations Review Board. Bryan offered to draft recommendations on revisions to the Bylaw that may help the Board with its mission.

Purchasing

The Select Board review the Purchasing Bylaw referenced in vendor question 64-001. **Selectman Bembury** asked if the Bylaw is sufficient. Bryan and **Chairman Smith** discussed the current structure and practices with the Select Board serving as the contracting authority and the Town Administrator serving as the Chief Procurement Officer.

School Department- Busing Services

The Select Board reviewed the proposed Bylaw that correlates to vendor question 77-001 (3). Bryan explained that he believes this is an error, noting that the Town has gone to the voters every five (5) years for authorization to sign a service contract with a busing vendor with a term longer than three (3) years. Bryan recommended that the Town does not codify these authorizations as a Bylaw and that it is appropriate to seek Town Meeting approval when necessary for long term contracts. The Select Board members expressed agreement and would delete draft language regarding spending authorization.

Town Meeting- Warrant Language

The Select Board reviewed the Bylaw that correlates to vendor question 84-001. The Select Board members discussed the recently adopted Bylaw that revises this section for posting Town Meeting requirements. Richard confirmed the understanding and noted that the draft Code was prepared using the Town Bylaws that had been adopted prior to its submission to the vendor and do not yet reflect recent changes. Richard and Bryan will work with the vendor to reconcile the draft Town Code with recently adopted Bylaws.

Alcoholic Beverages- Consumption on Public Ways and Property

The Select Board members reviewed the Bylaws that correlate to vendor questions 105-001 and 105-002 regarding the consumption of alcohol on public ways and property. **Selectman Bembury** discussed the current fine “not exceeding \$50.00” per offense and his belief that it is too low and that the statutory maximum of \$300.00 per offense is too high. **Selectman Bembury** suggested revising the fine to \$100 per offense. Bryan discussed the Attorney General’s requirement that fines are set with firm fees instead of language that implies discretion. **Chairman Smith** expressed agreement with the proposed revision and suggested a first offense fine of \$100.00 and second and subsequent offense fine of \$300.00.

Richard suggested removing references to “private school house, and school grounds, public squares.” in 105-002 as it is duplicitous and the purpose of the bylaw is to focus on public property, not private property. The Select Board members expressed agreement. Additionally, the Select Board members expressed agreement with the recommendation to strike “breach of peace” in vendor question 105-003.

The Select Board members reviewed proposed alternatives for enforcement of the violation of the Bylaws in vendor question 105-004. **Selectman Bembury** asked if Chief has reviewed. Bryan explained that “yes” Chief Holst had reviewed the draft code and has offered revisions that have been included in the recommendations that the Select Board is reviewing, noting that Chief Holst stressed the importance of having clear guidance in the Bylaws. **Chairman Smith** expressed support for revisions presented in option 3, and to include penalties previously discussed and update subsections 1 and 2.

Storage Tanks

The Select Board members reviewed vendor question 192-001 regarding the removal of underground storage tanks. **Selectman Bembury** asked if Erving has removed all tanks. Bryan explained that he will need to follow up with Chief Wonkka to obtain an update for the Select Board.

Dogs

The Select Board reviewed vendor question 121-015 regarding the current annual licensing fees and the proposed revisions that reflect the most recent fee adjustments. The Select Board members discussed support for the revisions. In response to vendor question 121-017 regarding violations and penalties, **Chairman Smith** asked about referring to proposed new Chapter 1 Article 1 for non-criminal penalties. The Select Board members expressed agreement to support the revision.

Hazardous Materials- Registration and Controls

The Select Board members reviewed the Bylaw language and the recommendations in vendor question 142-003. **Chairman Smith** asked about recommendation to file the notice with the Fire Department instead of Town Hall. Richard explained the concern that the current Bylaw refers to filing with the “Erving Town Offices”, but it is ambiguous as to which office is to receive the filing and that was the reason to recommend filing with the Fire Department. **Selectman Bembury** discussed the Fire Department having the expertise to handling the hazardous materials registrations. **Chairman Smith** expressed support for identifying the Town Clerk’s Office. Richard suggested amending the Bylaw to require filing in both the Town Clerk’s Office and the Fire Department. The Select Board members expressed support.

Streets, Sidewalks and Public Property- Issuance of Trench Permits

The Select Board reviewed the Bylaws regarding trench permits that correlates with vendor question 196-002. The Select Board would like suggested edits from the Highway Superintendent. Bryan will follow up.

Vehicles- Heavy Commercial Vehicle Restrictions

The Select Board reviewed the Heavy Commercial Vehicle Restriction Bylaw that correlates to vendor question 209-004 and the recommendation to increase the fine from \$20.00 per offense to \$100.00 per offense. The Select Board members agreed to increase the fine to \$100.00 per offense.

Vehicles- Removal of Vehicles During Snow Removal Operations

The Select Board reviewed vendor question 209-002 and reviewed the implications of each suggested edit option and the interaction with the Snow and Ice Removal Bylaw. Bryan asked the Select Board if they support the recommendation to delete the Removal of Vehicles during Snow Removal Operations as a separate Bylaw and incorporate it into the Snow and Ice Removal Bylaw as a new article. After discussion, **Chairman Smith** suggested moving the Bylaw language in proposed Chapter 209 Article 11 and move it to proposed Chapter 196 Article 9, in its entirety. **Selectman Bembury** expressed agreement.

Kelly Loynd asked the Select Board members to review the earlier conversation about the proposed fine structures. **Chairman Smith** provided an explanation of the vendor’s recommendation to provide a standard penalty structure for the Town Bylaws but that some Bylaws would maintain their own penalties. **Selectman Bembury** discussed the purpose of the Select Board conducting the review and working to make sure that the Town Bylaws are in accordance with current statutes for proper administration and enforcement. The Select Board explained that these revisions will be used to finalize the draft Town Code that will be presented to the voters. **Chairman Smith** suggested that the Town schedule informational sessions with the public to review the Town Code project and the proposed revisions. The Select Board will continue their review at the next meeting.

Issuance of the 2022 State Primary Election Warrant for September 6, 2022

The Select Board reviewed the 2022 State Primary Election Warrant for the election to be held on Tuesday, September 6, 2022, at Town Hall. **Chairman Smith** made a motion to approve the warrant for the 2022 State Primary held on the 6th day of September 2022. **Selectman Bembury** seconded. **Vote:** Approved.

Richard noted that his office has already received approximately 100 mail-in ballot requests for the State Primary. **Chairman Smith** discussed the potential correlation with State efforts to inform voters about the opportunity.

Discussion Regarding Textile Waste Ban & Disposal Options

The Select Board passed over this agenda item.

Review of Meeting Minutes for July 18, 2022

The Select Board members reviewed meeting minutes for Monday, July 18, 2022. **Selectman Bembury** made a motion to accept the meeting minutes of July 18, 2022, as written. **Chairman Smith** seconded. **Vote:** Approved.

Review of Meeting Minutes for June 21, 2022

The Select Board passed over this agenda item.

Review of Poplar Mountain Conservation Area Parking Lot Construction Procurement

The Select Board members reviewed a memorandum from Bryan outlining the Solicitation for Quotes (SFQ) process that was used for the procurement. **Chairman Smith** gave an overview of the procurement and explained that two (2) quotes were received by the deadline with the lowest price from Johnson Asphalt Paving LLC, in the amount of \$35,514.50. The Select Board discussed support for proceeding to award the procurement. **Chairman Smith** made a motion to award the procurement for the construction of the Poplar Mountain Conservation Area parking lot to Johnson Asphalt Paving, LLC of Northfield, MA, in the amount of \$35,514.50, and to authorize Bryan Smith, Town Administrator, to execute all necessary agreements. **Selectman Bembury** seconded. **Vote:** Approved.

Review of Erving Community PEG Access Professional Services Procurement

The Select Board members reviewed a memorandum from Bryan outlining the invitation for bid (IFB) process that was used for the procurement. **Chairman Smith** gave an overview of the procurement. **Chairman Smith** noted that as of the bid deadline a single response was received from Bernardston-Northfield Community TV, Inc. for a term of three (3) years for a total price of \$43,500. The Select Board members discussed support for proceeding to award the procurement. **Selectman Bembury** made a motion to award the procurement for community access TV professional services to Bernardston-Northfield Community TV, Inc of Northfield, MA, for a term of three years beginning September 1, 2022, and ending August 31, 2025, for a total contract price of \$43,500, and to authorize Bryan Smith, Town Administrator, to execute all necessary agreements. **Chairman Smith** seconded. **Vote:** Approved.

Review of Letter of Interest & Appointment to Cultural Council- Kathleen Sadler

Chairman Smith explained that the Town has four (4) vacancies on the Cultural Council. The Select Board reviewed the letter of interest to serve on the Cultural Council from Kathleen Sadler as well as a memorandum from Bryan recommending an appointment to the Council with a term ending on June 30, 2025. **Selectman Bembury** motion to appoint Kathleen Sadler as a member of the Cultural Council, with a term ending June 30, 2025. **Chairman Smith** seconded. **Vote:** Approved.

Review Cemetery Feasibility Study Scope of Work Draft

The Select Board reviewed a memorandum from Bryan proposing a scope of work to procure professional engineering and architecture services for the exploration of a new Town-owned cemetery. Bryan discussed the proposed purchasing approach and town process. **Chairman Smith** asked if the Town could identify other Massachusetts examples. Mariah Kurtz, Assistant Town Planner, discussed feedback from Salem, Ma. The Select Board will carry the topic for further discussion at the next Board meeting.

Review of Permitting and Licensing Software Procurement Draft

The Select Board reviewed a memorandum from Bryan proposing a scope of work to procure new licensing, permitting, and Board membership management software to be shared by multiple Town departments. Bryan discussed the procurement processes under Massachusetts General Law Chapter 30B and explained that he is recommending procuring a three (3) year term. The Select Board will carry the topic for further discussion at the next Board meeting.

Discussion Regarding Conceptual Proposal for Shared Use Path Connecting Erving Center & Farley

Mariah joined the Select Board to discuss a proposal to explore a multi-use shared path that would connect Erving Center and Farley. Mariah explained that she has researched a proposed shared path, noting that Erving identified the project in the Town's 2002 Master Plan. Mariah explained that the proposed project has been listed in numerous plans and studies and that to explore the potential for the project, Erving would need to collaborate with officials in Wendell as the proposed route would be constructed in Wendell. Mariah discussed the need to explore Massachusetts Department of Conservation and Recreation (DCR) trails and potential easements. Mariah discussed goal of identifying a funding source to study a project that would connect Farley to Erving Center and then maybe Wendell Depot. Mariah also discussed the possibility to connect with the towns of Orange and Athol. Mariah discussed potential stakeholders and that she is requesting approval to present the project to the Wendell Select Board and the Open Space Committee. Mariah discussed the potential to apply for a MassTrails grant, noting the priority for regional projects. Mariah noted that the trail would not be in Erving but discussed how it could benefit Erving residents by providing a safe alternative for pedestrians and bicyclists other than Route 2 and discussed the connection to Riverfront Park. **Selectman Bembury** expressed support for the proposed project and discussed support for Mariah to continue to explore its potential. **Selectman Bembury** discussed the benefits of the Riverfront Park improvements for Erving Center and discussed support for collaborative and regional efforts. **Chairman Smith** also discussed support for the concept and expressed support for exploring the project with other stakeholders. Mariah discussed including the conversation with the proposed construction projects for Bridge Street and the Massachusetts Department of Transportation (MassDOT) preliminary design projects for Farley and Erving Center on Route 2. Kelly discussed support for establishing pedestrian paths from Farley to Erving Center. Mark Blatchley discussed his experience on the current trails on DCR land. Mariah also discussed the alignment with the National Grid easements for transmission lines. The Select Board members gave approval to proceed with the exploration of the proposed project.

Review of Criminal & Sex Offender Record Information Policy, Drug & Alcohol-Free Workplace Policy, Retirement Policy, COBRA Policy, HIPAA Policy, and Non-Discrimination Policy- 1st Reading

The Select Board conducted a first reading of the following draft policies: Criminal & Sex Offender Record Information Policy, Drug & Alcohol-Free Workplace Policy, Retirement Policy, COBRA Policy, HIPAA Policy, and Non-Discrimination Policy. The Select Board members discussed having no current concerns with the draft policies. The Select Board will conduct a second reading at the next meeting.

Review Recommendation and Set FY2023 Water Use Rates

The Select Board reviewed a memorandum from Bryan regarding the setting of the FY2023 water use rates. **Chairman Smith** provided an overview of the memorandum noting that the FY2022 water use rate was \$5.20/1,000 gallons. **Selectman Bembury** expressed support for setting the FY2023 water use rate at \$5.25/1,000 gallons as it would cover the approved operating budget and help to prepare for future capital improvements for the water distribution system. **Chairman Smith** expressed agreement and noted the recent water main break that required repair. **Chairman Smith** made a motion to set the water rate for FY2023 at \$5.25/1,000 gallons. **Selectman Bembury** seconded. **Vote:** Approved.

Review Recommendation and Set FY2023 Electric Vehicle Charging Rates

Chairman Smith reviewed a memorandum from Bryan suggesting that the Select Board set the electric vehicle (EV) charger use rate for FY2023 to \$0.35/ kWh. The Select Board discussed the increased electricity costs and the goal of the revenues self-funding the costs. **Chairman Smith** made a motion to set the FY2023 EV charging rate at \$0.35/kWh. **Selectman Bembury** seconded. **Vote:** Approved.

Discussion Regarding Sharing Legal Service Fees with Neighboring Towns and FRCOG for FERC License Review for FirstLight Relicensing of the Northfield Mountain Pump Station & Cabot Station

The Select Board members reviewed a memorandum from Bryan regarding a proposal to share legal services with the Franklin Regional Council of Governments and the neighboring towns of Gill, Montague, and Northfield to review the final agreements as part of the Federal Energy Regulatory Commission (FERC) relicensing project for FirstLight. **Chairman Smith** explained that the proposal would be to share legal services to review the final documents for a cost to Erving of \$2,500. **Selectman Bembury** expressed concern that the Board of Assessors should be included in the review of any settlement agreements. Bryan expressed agreement and explained that the Board of Assessors' Office has been included in the review of any draft agreements. **Chairman Smith** noted that most of the settlement agreements have focused on environmental and recreational matters. The Select Board members expressed agreement to share legal services as proposed. **Selectman Bembury** made a motion to appropriate \$2,500 for shared legal services for the review of FirstLight settlement agreements and the FERC relicensing process with the Franklin Regional Council of Governments and the towns of Gill, Northfield, and Montague. **Chairman Smith** seconded. **Vote:** Approved.

Miscellaneous

Patrol Officer Screening Committee

Chairman Smith discussed the need to update the Patrol Officer Screening Committee so that the Police Department can continue the hiring process for the remaining full-time officer vacancy, noting that one member no longer works for the Town and another member is currently has limited availability. **Chairman Smith** suggested having a three (3) member committee comprised of the Robert Holst, Chief of Police, Glenn McCrory, Highway Superintendent, and a Select Board member. **Selectman Bembury** expressed agreement and explained that he would like to continue to serve as the Select Board representative on the Committee. **Chairman Smith** made a motion to dissolve the Patrol Officer Screening Committee and to establish a Patrol Officer Screening Committee consisting of three members, with a member from the Board, William Bembury, Chief Holst, and Superintendent McCrory. **Selectman Bembury** seconded. **Vote:** Approved.

Adjournment

At 8:51 PM **Chairman Smith** made a motion to adjourn. **Selectman Bembury** seconded. **Vote:**
Unanimously approved.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Bryan Smith".

Bryan Smith
Town Administrator