

Board: Select Board / Water Commissioner's Meeting
Date: Monday, November 28, 2022
Location: Senior & Community Center, 1 Care Drive, Erving, MA 01344

Select Board Present: Jacob Smith, Scott Bastarache, William Bembury
Also, Present: Bryan Smith, Mariah Kurtz, Glenn McCrory, Robert Holst, Peter Sanders, Jeffrey McAndrews
Press: Otis Wheeler, BNCTV

At 6:33 PM **Chairman Smith** called the meeting to order.

Review of Police Department Policy- 1.23 Mounted Electric Bike Policy- 3rd Reading

The Select Board members conducted a third reading of the draft Police Department Policy 1.23 Mounted Electric Bike. The Select Board members discussed support for approving the policy as presented. **Selectman Bastarache** made a motion to approve the Mounted Electric Bike Patrol Policy and Procedure number operations 1.23, with an effective date of November 28, 2022. **Selectman Bembury** seconded. **Vote:** Unanimously approved

Review of Pregnant Workers Fairness Act Policy Draft- 3rd Reading

The Select Board members conducted a third reading of the draft Pregnant Workers Fairness Act Policy. The Select Board members discussed support for approving the policy as presented. **Selectman Bastarache** made a motion to approve the Pregnant Workers Fairness Act Policy, ADM-150, with an effective date of November 28, 2022. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

Discussion Regarding Shared Health Inspection Services Proposal

At 6:35 PM **Chairman Smith** began what was meant to be a joint meeting with the Board of Health to discuss a proposal regarding the regional shared health inspection service. Only Jeffrey McAndrews, Board of Health member, was able join the Select Board. The Select Board and Board of Health members reviewed a memorandum from Bryan Smith, Town Administrator, regarding a proposal to have Erving serve as the lead fiscal entity for the existing regional cooperative health district that Erving is a member of. Bryan and Jeffrey discussed the request of having the three (3) member towns draft a Health Agent position description and an interim agreement with a term through June 20, 2023, to provide the towns enough time to work on a multi-year agreement. Jeffrey provided an overview of the current services provided to Erving by the health district and explained that the Board of Health wants to continue to have services provided by the existing Health Agent. Bryan explained that the member towns have a cost sharing model to determine annual assessments that would continue under the proposal. **Chairman Smith** asked for an explanation of the clerical support for the district. Bryan explained that Erving has clerical support through the Select Board's office for the Board of Health and he believes that each Town will discuss how to proceed. **Selectman Bastarache** discussed the current understanding of the annual assessment breakdown and acknowledged that the towns would have to allocate funding for health insurance. **Selectman Bembury** expressed support for the proposal and for the Health Agent position to be benefits eligible. **Selectman Bastarache** expressed support for the proposal and discussed his experience at district meetings regarding the logistics for a transition to a lead town. **Chairman Smith** discussed exploring options to establish a fund to hold the assessment payments from the towns. Bryan explained that he is researching whether an enterprise fund or a revolving fund would be appropriate for the need. The Select Board members discussed general support for the request. Bryan will draft a position description and a draft agreement for the Board to review at their next meeting.

At 6:58 PM the meeting with the Board of Health ended and the Select Board continued with their meeting.

Review of Fraud Prevention Policy Draft- 3rd Reading

The Select Board members conducted a third reading of the draft Fraud Prevention Policy. The Select Board members discussed support for approving the policy as presented. **Selectman Bembury** made a motion to adopt the Town of Erving Fraud Prevention Policy, ADM-120, effective November 28, 2022. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

Review of Whistleblower Protection Policy- 3rd Reading

The Select Board members conducted a third reading of the draft Whistleblower Protection Policy. The Select Board members discussed support for approving the policy as presented. **Selectman Bastarache** made a motion to approve the Whistleblower Protection Policy, ADM-130, with an effective date of November 28, 2022. **Chairman Smith** seconded. **Vote:** Unanimously approved

Review of Workplace Violence Prevention Policy Draft- 3rd Reading

The Select Board members conducted a third reading of the draft Workplace Violence Prevention Policy. The Select Board members discussed support for approving the policy as presented. **Selectman Bembury** made a motion to adopt the Workplace Violence Prevention Policy, ADM-100, effective November 28, 2022. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

Review of Domestic Violence Leave Policy Draft- 3rd Reading

The Select Board members conducted a third reading of the draft Domestic Violence Leave Policy. The Select Board members discussed support for approving the policy as presented. **Selectman Bembury** made a motion to approve the Domestic Violence Leave Policy, ADM-180, effective November 28, 2022. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

Review of Clothing Allowance Policy Draft- 2nd Reading

The Select Board members conducted a second reading of the draft Clothing Allowance Policy. **Selectman Bastarache** explained that there is a request to reconsider the amount of the allowance, noting that it has been the same amount for many years. Glenn McCrory, Highway Superintendent, stated that the policy has been at the same amount since before he was hired. **Chairman Smith** asked about the applicability of Internal Revenue Service's (IRS) regulations regarding income tax eligibility. Bryan explained that because the allowance is paid to employees and is intended to replace general wear clothing and not uniforms, the IRS guidance requires the allowance to be paid as a payroll item and is therefore eligible for income taxation. **Chairman Smith** asked that the policy is clarified that new employees will be given their allowance during their first payroll with the Town. The Select Board members discussed general support for change in the amount to \$500.00. Bryan will change the plurality of Buildings & Grounds maintenance. The Board will conduct a third reading at the next meeting.

Review of Proposed Personnel Bylaw Draft – 2nd Reading

The Select Board members conducted a review of the proposed draft language for the Personnel Bylaw. **Chairman Smith** asked about the proposal to reconstitute Personnel Board. **Selectman Bastarache** suggested the option for the Select Board to serve as the Personnel Board or appoint a separate Board. **Selectman Bembury** discussed previous challenges with finding enough members to staff the Personnel Board. The Select Board members discussed the option to establish the Board with three (3) members instead of five (5). Bryan will draft potential revisions for the Select Board's consideration. **Chairman Smith** asked to clarify the applicability of the Bylaw with collective bargaining agreements, noting a potential

conflict in Section 1, subsection B2 and subsection E. Regarding Section 3 “Definitions,” **Chairman Smith** suggested removing subsection A and to change the reference of Board of Selectmen to Select Board in subsection C. **Chairman Smith** suggested that the definition for part-time employment is clarified for benefits eligibility. Returning to the topic of the Personnel Board, **Chairman Smith** requested that clarity is provided about terms of office, and whether members can be reappointed for successive terms. Bryan will make revisions and the Select Board will conduct a third reading at the next meeting.

Review of Proposed Personnel Policies & Procedures Manual Draft- 2nd Reading

The Select Board members conducted a review of the proposed draft revisions for the Personnel Policies & Procedures manual. Regarding the topic of meal breaks, **Selectman Bembury** discussed the acknowledgement about Police officers’ exception for breaks and asked about other departments like the Library. Bryan expressed concern about staff not taking breaks and acknowledged that their may be strategies to meet the operational needs of departments. The Select Board members discussed the potential for departments to close offices to allow for breaks. **Selectman Bembury** explained that he wants to ensure that the policy language does not ask employees to forfeit breaks. Bryan expressed agreement. **Chairman Smith** suggested adding language regarding emergent situations. **Chairman Smith** asked that the policy language removes the word “encourage” because it is required. **Selectman Bembury** suggested that the policy refers to the Fair Labor Standards Act (FLSA).

Regarding the topic of overtime, **Selectman Bastarache** discussed feedback that was received from staff members about being allowed to use accrued paid leave time towards the calculation of overtime eligibility, although not required by the FLSA. **Selectman Bastarache** discussed support for allowing accrued paid leave time to count towards eligibility to earn overtime, except for sick time. Bryan discussed the concern about any policy language that would encourage employees to come to work sick. Glenn joined the Select Board and discussed past practice of employees using sick time if they have plowed for too many hours and it is deemed unsafe to continue to work. **Chairman Smith** discussed the discretion of Department Heads to send employees home if it is unsafe to continue to work and that those decisions should be separate from sick time use. Bryan advocated for protection of sick time and finding another policy option to address the concerns expressed by the Highway and Police departments. **Selectman Bastarache** explained that he would like to further discuss the triggers for use of sick time towards the eligibility for overtime.

Selectman Bembury expressed concern about deviating from the requirements of the FLSA and raised the concern about creating a perception that overtime is guaranteed to employees. Bryan will send a track changes version of the manual to the Select Board members for review. **Chairman Smith** discussed overtime requirements and his in the private sector where an employee’s paid time off counted towards overtime eligibility. **Chairman Smith** discussed his preference that most paid leave time is counted towards overtime eligibility, specifically holiday, compensatory time, and vacation. **Chairman Smith** expressed agreement that sick time should not count. **Chairman Smith** discussed wanting to address how emergent response issues are handled as well as setting limitation on hours that can be worked for health standards. Bryan will look for examples from other towns on how they handle similar situations. **Selectman Bastarache** discussed the possibility of determining overtime based on hours over shift. **Chairman Smith** reiterated his concern about health and safety issues. The Select Board members discussed the possibility of establishing a mandatory time off. Robert Holst, Chief of Police, expressed support for allowing paid leave time to count towards overtime eligibility and suggested policy language about employees not being out sick before taking an overtime shift. The Select Board members agreed that further consideration of these matters is necessary. The Select Board members agreed to pause conversation on the review of the manual and to resume later in the meeting.

Discussion Regarding Erving Center Water

Mariah Kurtz, Town Planner, and Peter Sanders, Water & Wastewater Superintendent, joined the Select Board meeting to discuss a request to consider the potential to explore a public water source in Erving Center. The Select Board members reviewed a memorandum from Bryan, providing a general overview of the Town's consideration for a public water source and posing the question about the Town's potential interest in exploring the viability of a utility. Bryan explained that he is concerned about the future viability of Erving Center as a commercial district without access to a public water source. Mariah discussed the challenges of making accurate budget requests for a project like this with the existing budget processes and the available grant cycles. Mariah noted that there can be a misalignment between the opportunities on the Federal level and the Town's process. **Chairman Smith** explained that such a large project would require public conversations and approvals from the voters. Mariah echoed concern about the future of Erving Center and noted that business owners are concerned about the topic and the importance of having conversations with residents. **Chairman Smith** asked Peter about the requirements for a public water supply and the costs on business owners. Peter confirmed that each business is currently required to run their own public water supply and to comply with the regulatory requirements. **Selectman Bastarache** noted that the memorandum from Tighe & Bond projects that a project for Erving Center may cost approximately \$16 million. Bryan confirmed that understanding and noted that construction costs continue to increase while funding on the federal level for infrastructure projects may be available to support a potential project. **Chairman Smith** explained that the current proposal is to look at the potential use of two (2) Town-owned sites. The Select Board members discussed support for allowing the Town to proceed with a hydrological study of two (2) Town-owned sites in Erving Center for viability as a public water source. **Chairman Smith** made a motion to engage HydroSource Associates, P.C. for well siting services, as described in their proposal dated October 28, 2022, for a fixed sum of \$7,700.00. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

Selectman Bembury discussed his support for the project and discussed his experience as a resident of Erving Center and fellow residents having failed wells. The Select Board members discussed wanting to understand the prevalence of failed wells in Erving Center. Bryan will gather this information from the Board of Health.

Review of Professional Services Agreement with FRCOG for Procurement Assistance

The Select Board members reviewed a memorandum from Bryan requesting authorization to engage the procurement office at the Franklin Regional Council of Governments (FRCOG) for professional procurement assistance with a multi-year trades contract, beginning with electricians, for the Town. Bryan explained that the contract would be used for ongoing and regular maintenance and would not take the place of comprehensive procurements for larger projects. The Select Board members expressed support for proceeding. **Selectman Bastarache** made a motion to engage authorize Town Administrator Bryan Smith, to enter into an agreement with FRCOG for the procurement of on-call electrician services, not to exceed a \$2,000 budget. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

Discussion Regarding Planning Department Name and Liaison

The Select Board members reviewed a memorandum from Mariah requesting a change to the name of the Department to Community Planning. Mariah discussed the request and explained the confusion that has arisen with the Planning Board. The Select Board members discussed the importance of being clear for the residents and support to change Department name to Community Planning.

Liaison Assignment

Selectman Bastarache offered to serve as Select Board liaison to the Community Planning Department. **Chairman Smith** made a motion to appoint **Selectman Bastarache** as liaison to the Department of Community Planning. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

Discussion Regarding Request to Establish Public Art Gift Fund

Mariah explained the request to establish a Public Art Gift Fund for the Town, noting that there is a few hundred dollars left from the Heron sculpture project that was funded by FirstLight that can be used to seed the account. Mariah explained that the Fund would allow interested individuals to make gifts to the Town to further public art efforts throughout the community. The Select Board members discussed support for the request. **Selectman Bastarache** made a motion to establish a Public Art Gift Fund for the Town of Erving. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

Recess

At 8:48 PM **Chairman Smith** made a motion for the Select Board to recess the meeting until 9:00 PM. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

At 9:06 PM the Select Board resumed the meeting.

Review of Meeting Minutes for September 14, 2022

The Select Board passed over this agenda item.

Review of Meeting Minutes for November 14, 2022

The Select Board members reviewed the meeting minutes for Monday, November 14, 2022. **Selectman Bembury** made a motion to accept the meeting minutes of Monday, November 14, 2022, as written. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

8th Water Commitment for FY2023

The Water Commissioners reviewed the 8th Water Commitment for FY2023 for final water use charges at 13 Gunn Street. **Commissioner Bastarache** made a motion to approve the 8th Water Commitment of FY2023, in the amount of \$57.59 for final charges at 13 Gunn Street. **Commissioner Bembury** seconded. **Vote:** Unanimously approved.

Review of Family and Medical Leave Act Policy Draft- 1st Reading

The Select Board members conducted the first reading of the proposed draft Family and Medical Leave Act Policy. The Select Board members discussed having no concerns at this time. The Board will conduct a second reading at the next meeting.

Activities Coordinator Search Committee

The Select Board members reviewed a memorandum from Bryan regarding the search for the Activities Coordinator position. **Chairman Smith** provided an overview and asked the other Select Board members if they would prefer a three (3) or five (5) member preliminary screening committee. **Selectman Bembury** expressed support for a five (5) member committee because he wants to make sure the search for this position is given sufficient attention. **Chairman Smith** and **Selectman Bastarache** both expressed agreements. The Select Board members discussed a composition that includes Paula Betters, Director, Becky Paciorek, **Selectman Bembury**, an Erving citizen, and a patron of the Senior & Community Center. **Selectman Bastarache** made a motion to create a Preliminary Screening Committee for the Activities Coordinator, to be comprised of Director Paula Betters, Becky Paciorek, **Selectman Bembury**, and two

additional members with preference for one of those members to be an active patron of the Senior Center. **Selectman Bembury** seconded. **Discussion:** The Select Board members agreed that the vote was to establish the Committee and appoint the identified members. The Select Board members discussed wanting to identify potential members to serve on the Committee by December 30, 2022. **Vote:** Unanimously approved.

Bryan asked the Select Board members if they would approve advertising the position as benefits eligible. **Chairman Smith** discussed the request, noting that the position was originally proposed as 19 hours per week. **Selectman Bembury** discussed support for the request and **Selectman Bastarache** expressed agreement, explaining that he anticipates that the position will grow. **Chairman Smith** asked about budget increase. Bryan noted that he has spoken with the Treasurer and that there is sufficient funding in the benefits budget at this time to provide insurance benefits if necessary. The Select Board members expressed agreement to proceed with advertising the position as benefits eligible.

Unanticipated Business

Treasurer's Request to Seek Proposals for Alternative Dental & Vision Plans

Bryan provided a general request for the Select Board to authorize the Treasurer to seek proposals from alternative dental and vision plan providers that the Select Board can consider later. Bryan explained that some employees have expressed disappointment with the current offering and the goal of identifying what alternative plans may be within the market. **Selectman Bembury** asked if it is possible for the Town to offer more than one vendor for insurance and allow employees to choose. Bryan noted that it may be an option and the goal is to make sure that the Select Board is informed about all the options. **Selectman Bastarache** asked if the Town should notify the Hampshire Group Insurance Trust by the 1st of December. The Select Board members agreed to proceed to seek alternative proposals and to notify the Trust that the Town is reviewing options.

Review of Proposed Personnel Policies & Procedures Manual Draft- 2nd Reading (revisited)

Regarding the topic of Holiday leave, **Selectman Bastarache** expressed his concern about giving a greater holiday benefit for a 10-hour shift versus a standard 8-hour day. **Selectman Bastarache** explained that by recognizing a day differently depending on the employee's schedule would allow for one full-time employee to receive 24 additional hours of paid time off than another full-time employee. Chief Holst joined the Board to discuss the issue about holiday calculation for full-time officers working a 40-hour week that also must work the holiday. **Selectman Bastarache** reiterated the concern. The Select Board members agreed the need to revisit the request.

Regarding the topic of vacation leave, Chief Holst requested that the language of the policy be amended to clarify that the employee is responsible for monitoring their own paid time off accruals instead of the department head. Bryan expressed agreement and explained the Treasurer's Office process of updating employees each month. The Select Board members expressed agreement with the requested change.

Regarding the topic of sick leave, Chief Holst discussed a request to allow employees to gift their own accrued sick time to another employee. **Selectman Bastarache** discussed his experience with a similar option on the State level to participate in a sick bank. **Selectman Bastarache** discussed not being interested in a mandatory pool. **Chairman Smith** discussed openness to consider a directed giving option in the policy instead of a sick bank. The Board members expressed agreement. Bryan will research policy options.

The Select Board members agreed to continue their review of the manual at their next meeting. Bryan will summarize feedback and maintain a running list for the Board members.

Next Meeting

Chairman Smith and the Board members discussed anticipated topics for the next meeting, including the FY2023 tax classification hearing, budget hearing, and to revisit the backup plowing topic.

Adjournment

At 9:58 PM **Chairman Smith** made a motion to adjourn. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

Respectfully submitted,

A handwritten signature in black ink that reads "Bryan Smith". The signature is written in a cursive, flowing style.

Bryan Smith
Town Administrator