

**Board:** Select Board / Water Commissioner's Meeting  
**Date:** Monday, December 19, 2022  
**Location:** Senior & Community Center, 1 Care Drive, Erving, MA 01344

**Select Board Present:** Jacob Smith, Scott Bastarache, William Bembury  
**Finance Committee:** Debra Smith, Benjamin Fellows, Charles Zilinski, Daniel Hammock  
**Also, Present:** Rachel Stoler, Megan Ryan, Elizabeth Sicard, Jacquelyn Boyden, Robert Holst, Glenn McCrory, C. Mark Blatchley, Michael Gordon, Philip Wonkka, Bryan Smith  
**Press:** Otis Wheeler, BNCTV

At 6:35 PM **Chairman Smith** called the meeting of the Select Board to order.

**Sale of Surplus Real Property at 18 Pleasant Street & 17 Moore Street to Millers Falls Realty, LLC**

The Select Board members reviewed a memorandum from Bryan Smith, Town Administrator, regarding the sale of the surplus real property at 18 Pleasant Street and 17 Moore Street. **Selectman Bastarache** provided an overview of the process used to sell the property and the work that he has done on behalf of the Select Board to work with Town Counsel and the buyers to prepare for the closing. **Selectman Bastarache** explained that the deeds have been drafted and the closing is scheduled for December 21, 2022, if the Select Board is prepared to finalize the sale. The Select Board members expressed support for proceeding. **Selectman Bembury** made a motion to deem 18 Pleasant Street (parcel ID: 4-5-73) as surplus real property and for the Select Board to sell the real property, as authorized with the unanimous approval of Article 19 of the Annual Town Meeting held on May 12, 2021, to Millers Falls Realty, LLC. of 34-A East Main Street, Millers Falls, MA 01349, having submitted a highly advantageous proposal through the request for proposals process, in the amount of \$10,000.00, and to execute the deed and all necessary documents on behalf of the Town of Erving to complete the sale. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

**Selectman Bembury** made a motion to deem 17 Moore Street (parcel ID: 4-5-16) as surplus real property and for the Select Board to sell the real property, as authorized with the unanimous approval of Article 11 of the Special Town Meeting held on March 05, 2022, to Millers Falls Realty, LLC. of 34-A East Main Street, Millers Falls, MA 01349, having submitted a highly advantageous proposal through the request for proposals process, in the amount of \$5,000.00, and to execute the deed and all necessary documents on behalf of the Town of Erving to complete the sale. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

**Selectman Bembury** made a motion that the Select Board authorizes Scott Bastarache to execute the owner's affidavit on behalf of the Select Board for the closings of 18 Pleasant Street and 17 Moore Street, Erving to Millers Falls Realty, LLC. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

**Mass-in-Motion Grant for Erving Age-Friendly Work Presentation**

Meg Ryan and Rachel Stoler, from the Franklin Regional Council of Governments (FRCOG), joined the Select Board to discuss the Mass-in-Motion Grant for Erving. Meg provided an overview of the age-friendly planning initiatives that have occurred throughout Franklin County and Erving, explaining that the work is a part of the regional AARP age and dementia friendly planning effort. Meg reviewed the eight (8) areas of focus for the planning work, called the "domains of livability," that include:

- Housing
- Outdoor spaces and buildings
- Transportation

- Communication and information
- Civic participation and employment
- Respect and social inclusion
- Health services and community supports
- Social participation

Rachel discussed the Massachusetts Mass-in-Motion initiative and explained that the public health initiative can support initiatives that improve communities such as Complete Streets and farm to institutions, etc. Rachel explained that the grant awards are becoming more competitive with approximately ten (10) grants awarded in the most recent round. Rachel explained that Erving has been a participant of the larger Franklin County grant initiative for many years. Rachel discussed the long-term planning initiatives and that the grant is exploring racial influences and discussed the exploration of equity concerns.

Meg reviewed the Age and Dementia friendly Franklin County Needs Survey data, noting that the survey yielded approximately two thousand (2,000) responses, with forty-five (45) responses coming from Erving residents. Meg explained that most respondents were between the ages of sixty (60) and seventy-nine (79) and provided a general overview of the data that was collected, highlighting some data points with Erving responses.

#### **Housing**

- 47% of Franklin County respondents own their own home, 61% for Erving respondents;
- 67% of Franklin County respondents have lived in town for 15+ years, 74% for Erving respondents;
- 90% of Franklin County respondents reported that it's important to stay in their town as they age, 100% for Erving respondents;

Meg explained that respondents identified the cost of maintaining homes as a driver for considering a change in housing.

#### **Transportation**

- 86% of Franklin County respondents drive themselves, 98% for Erving respondents;
- 23% of Franklin County respondents walk or bike, 7% for Erving respondents;
- 46% of Franklin County respondents report there is no public transit in their area or it is too hard to get to, 51% for Erving respondents;

#### **Outdoor Spaces and Buildings**

- 77% of Franklin County respondents report good access to public buildings for their current needs, 83% for Erving respondents;
- 42% of Franklin County respondents report not having access or don't know if they have access to outdoor spaces that are accessible to them with adequate benches, 81% for Erving respondents;
- 61% of Franklin County respondents report good traffic signs and pedestrian crossings, 79% for Erving respondents;
- 81% of Franklin County respondents report always feeling safe in their home and community, 91% for Erving respondents;

### **Health Services and Community Supports**

- 13% of Franklin County respondents report receiving care giving support, 5% for Erving respondents;
- 22% of Franklin County respondents report access to home health care providers is poor or unavailable, 24% for Erving respondents;
- 49% of Franklin County respondents report good access to easy-to-find information about services, 59% for Erving respondents;

### **Social Participation**

- 83% of Franklin County respondents report sometimes or often feeling well supported, 88% for Erving respondents;

### **Communication and Information**

- Top sources of information included:
  - 54% of Franklin County respondents identified the Council on Aging/ Senior Center as a top source, 61% for Erving respondents;
  - 27% of Franklin County respondents identified the Town newsletter as a top source, 80% for Erving respondents;

### **Civic Participation and Employment**

- 57% of Franklin County respondents report having good or excellent opportunity for civic engagement, 76% for Erving respondents;
- 25% of Franklin County respondents report financial insecurity as their biggest problem or worry about getting by each month, 18% for Erving respondents;

### **Respect and social Inclusion**

- 54% of Franklin County respondents feel they have conveniently located social and cultural activities, 79% for Erving respondents;

Meg summarized the data and how it can inform regional work to make more progress on age and dementia-friendly considerations for planning in participating towns.

Rachel reviewed the timeline for completing the planning work under the Mass-in-Motion grant and reviewed the proposed memorandum of understanding (MOU) between the Town and the FRCOG. Rachel explained that the Town would need to form a working group, suggesting a group of six (6) to eight (8) people with diverse perspectives. Rachel explained that the Town needs to have at least two (2) people attend health equity training that has been scheduled for February 2023. Rachel explained that the grant will provide the Town with \$4,230 to support the Town's effort for planning through June 30, 2023. The Select Board members discussed support for approving the MOU. **Selectman Bastarache** made a motion to enter into a memorandum of understanding by and between the Town of Erving and the Franklin Regional Council of Governments for Mass-in-Motion age-friendly planning. **Selectman Bembury** seconded. Vote: Unanimously approved.

## **Review of FY2024 Budget Requests- Public Safety, Public Works, General Government, Discussion of Dental & Vision Plan Options- Joint Meeting with Finance Committee**

At 7:13 PM **Chairman Smith** called the joint meeting of the Select Board and the Finance Committee to order. Finance Committee members Debra Smith, Benjamin Fellows, Charles Zilinski, Daniel Hammock joined the meeting.

### **Discussion Regarding Dental & Vision Insurance Plan Options**

Jennifer Eichhorn, Treasurer, joined the meeting to provide an initial overview of a proposal for the Select Board to consider transitioning dental insurance providers. Jennifer explained that she began researching options for insurance providers after staff members had expressed concerns about the existing plan. Jennifer explained that she had sought feedback from current benefited employees and summarized the guidance. Jennifer explained that she has received proposals from Aflac, MIIA Dental Blue Freedom, and Delta Dental. The Select Board members reviewed the proposals in addition to the current coverage through the Guardian Plan.

Jennifer explained that after her review of the different proposals and reviewing employee feedback, she would recommend that the Select Board consider transitioning coverage to Delta Dental. Jennifer acknowledged the need to discuss the proposed changes with the insurance advisory and unions. Jennifer explained that for dental insurance, the Town currently has a contribution rate that is a set dollar amount, not necessarily a percentage. **Chairman Smith** asked for the current counts for dental plan enrollment. Jennifer estimated that the Town currently has forty (40) active employees in the core dental plan, twenty (20) active in the high plan, and twenty-three (23) in the retiree plan. The Select Board members discussed general support to explore the dental options with the Town's employees, retirees, and unions to receive further feedback. The Finance Committee members also expressed support.

### **Review of Draft Letter from School Committee Chair**

Jennifer Eichorn, in her role as School Committee Chair, discussed the status of the negotiations with the Erving Teachers Association, explaining that she wants to be fiscally responsible and transparent. Jennifer discussed her goal for wanting to be responsible and to negotiate a fair contract and expressed support for the staff. Jennifer shared a position letter that she had drafted to provide more information. **Chairman Smith** discussed wanting the Select Board and the Finance Committee members to have an opportunity to review the position letter and to consider whether to offer support to it. **Selectman Bastarache** discussed his review of the information and noted that the proposed adjustments and a new lane for PHD and CAGS. Jennifer acknowledged the proposed addition explaining that the new lane reflects a 3% increase. **Selectman Bastarache** discussed his experience with past negotiations in personal and professional life and the complexities that are involved. **Selectman Bastarache** discussed appreciation for information being shared and support for the letter. **Chairman Smith** asked for clarification if the proposed lane was for completion of a certificate or credit attainment. Jennifer explained that the proposal is for completion.

Daniel asked if the Select Board and the Finance Committee had previously been asked to consider support for a position. **Selectman Bastarache** explained that this is the first time that he recalls the negotiations to come to mediation and for parties to make public statements. Daniel asked if the staff had had a chance to present their perspective other than what was in the paper. Jennifer stated that the union representatives have attended the last two (2) School Committee meetings and have submitted multiple letters to the newspaper and have held a meeting with community members. Daniel clarified that he was wondering if the union had asked to come to the Select Board. **Chairman Smith** noted that the Select Board has not been asked but would be welcome. Daniel explained that he would want to hear

from both sides and expressed his support for sharing information publicly, but that he is not sure that he can express support for a specific perspective.

**Chairman Smith** asked for clarification of a one (1) time bonus request. Jennifer explained that the request was for a one (1) time payment of a \$5,000.00 bonus, from the Elementary and Secondary School Emergency Relief Fund (ESSER) grant, for working during the COVID-19 pandemic. Debra asked for an explanation of what the ESSER grant was meant for. Jennifer explained that the ESSER fund was committed for reopening schools after the initial closure during the pandemic to address student needs. Jennifer explained that the School Department had already committed the \$207,000.00 funds on existing expenses. Jennifer noted that the union president had attended school meetings to discuss the plan for how the funds would be allocated. Jennifer explained that the ESSER grant was primarily being used to fund the salary for the adjustment counselor. **Selectman Bastarache** asked if the adjustment counselor position was intended to be temporary, because it was sourced from a grant, or permanent. Jennifer explained that she believes it was meant to be permanent. Jennifer added that some supplies and contracted services were also attributed to the ESSER grant.

Charles discussed support for the letter and expressed concern over the proposed increases. Daniel restated his support for sharing information and discussed being uncomfortable with the Select Board and the Finance Committee getting involved in negotiations. Daniel expressed his general support for pay increases in consideration of inflation. Daniel expressed concern for giving funds for working through COVID-19 when many other sectors of employees also had to work through the pandemic. **Selectman Bastarache** discussed support for sharing information and for the questions about the proposed increases in comparison with neighboring communities. **Selectman Bastarache** added that the cost of benefits should be considered as it is a part of the overall compensation. Debra expressed support for the position letter. **Chairman Smith** added that the Select Board has a liaison at school negotiations. **Selectman Bastarache** identified himself as the liaison and discussed his involvement.

**Chairman Smith** clarified that the Select Board members are in support of the letter that is being issued. Daniel and Charles both expressed support for sharing the information but not for supporting the position presented in the letter. Benjamin and Debra both expressed support for the position letter. Daniel asked for the meeting minutes to accurately reflect his perspective.

#### **Review of FY2024 Budget Requests- Public Safety, Public Works, & General Government**

The Select Board and Finance Committee members reviewed FY2024 budget requests.

#### ***Review of Police Department FY2024 Budget Request***

Robert Holst, Chief of Police, joined the meeting to review the Police Department's budget request that totals \$635,884.00, an increase of \$97,834.00 over FY2023. Chief Holst reviewed the progress that has been made throughout the year to achieve full staffing of six (6) full-time officers. Chief Holst discussed the work to restore the canine officer program and the regional co-responder program partnership and the addition of the mental health clinician. Chief Holst discussed working with the union to implement the first year under the new contract and the work to restore part-time officers. Chief Holst explained that the FY2024 budget request would allow the Department to create a cadet program. Chief also discussed the goal of working towards achieving two (2) offers per shift. Chief Holst discussed the goal to continue to work to update Department policies and the focus on complying with the requirements under the police reform laws.

Charles asked about electricity costs related to the new electric vehicle that was added to the fleet. Chief Holst and **Chairman Smith** provided an explanation. Bryan added that vehicle charging will be charged to the vehicle fuel Department as are all other fleet vehicles. Debra asked about costs related to veterinarian services for the canine officer program. Chief Holst discussed his approach to budgeting for the first year of the program and acknowledging the generosity of the service providers in the area. Daniel discussed general support for the increases. Debra asked for an update on the emergency communications radio system. Chief Holst explained that Chief Wonkka has been the lead on that project and discussed the implementation of repeater equipment in cruisers. Bryan added that more repeater units have been ordered and noted that the Town is exploring the potential proposal for a radio site downtown to bring to the Select Board in the future. The Select Board and Finance Committee members had no concerns regarding the FY2024 budget request at this time.

***Review of Animal Control FY2024 Budget Request***

Robert Holst, Chief of Police, joined the meeting to review the Police Department's budget request that totals \$12,620.00, which is a level funded request. Chief Holst explained that the current Animal Control Officer has been on leave and that the Police Department and an arrangement with the Athol Police Department has helped to cover calls for service. Chief Holst discussed the potential need to hire for the position or to contract for services in the meantime, with a preference for maintaining the service within the Town. **Chairman Smith** explained that the agreement with Athol is in place through June 30, 2023. **Selectman Bastarache** discussed the need to plan for training in the Animal Control budget. The Select Board and Finance Committee members had no concerns regarding the FY2024 budget request at this time.

***Review of Fire Department & Emergency Management Department FY2024 Budget Requests***

**Chairman Smith** explained that Phillip Wonkka, Fire Chief & Emergency Management Director, was called to a mutual aid incident and was not currently available to present his request. The Select Board and Finance Committee members agreed to carry the topic to a future meeting.

***Review of Fire Building, Electrical, Gas & Plumbing Inspections FY2024 Budget Request***

**Chairman Smith** explained that the Franklin County Cooperative Inspection Program has not set the annual assessment for FY2024 yet. The Select Board and Finance Committee members agreed to carry the topic to a future meeting in January 2023.

***Review of Conservation Commission FY2024 Budget Request***

Michael Gordon, Tree Warden, joined the meeting to review the Tree Warden's budget request that totals \$36,537.00, an increase of \$2,000.00 over FY2023. Michael provided an overview of the preventative maintenance work that has been done in the past year, conducting the tree hearing process, and discussed the work to clear trees and improve visibility from the roadway of the Police Station. Michael discussed the public tree planting program and noted the significant challenge that was experienced with the drought conditions. Michael noted that more plantings are scheduled for the spring. Michael discussed the work to coordinate with the Highway Department on larger projects to limit outsourcing and explained the request for additional funds for Police details. **Selectman Bembury** asked for an explanation of the use of Police details. Michael discussed the challenges with the Town's narrow road layouts and the difficulty of ensuring road safety during the tree work without a detail. **Selectman Bastarache** asked about plans for advertising the public tree planting program or including an announcement in the Around Town newsletter. Michael discussed some of the challenges he has experienced with the tree planting efforts such as vandalism to the trees and the watering bags. Bryan acknowledged the challenges and noted the positive feedback that has been received from residents that have worked with the Tree Warden on

replanting. Michael discussed the need for residents to help with the water of the newly planted trees. **Chairman Smith** suggested some public education around the concerns. The Select Board and Finance Committee members had no concerns regarding the FY2024 budget request at this time.

***Review of Wastewater Department & Water Department FY2024 Budget Requests***

**Chairman Smith** explained that Peter Sanders, Water & Wastewater Superintendent, was not currently available to present his request. The Select Board and Finance Committee members agreed to carry the topic to a future meeting.

***Review of Town Clerk's Office FY2024 Budget Request***

The Town Clerk was not able to attend this meeting, so the Select Board and Finance Committee will carry this topic to a future meeting.

***Review of Conservation Commission FY2024 Budget Request***

Mark Blatchley, Commission Chair, joined the meeting to review the Conservation Commission's budget request that totals \$21,000.00, an increase of \$17,000.00 over FY2023. Mark discussed the progress that the Commission has made throughout the past year. Mark explained that David Brule has recently stepped down as Chair and that Mark has been voted into the position. Mark discussed the work of the Commission members to take on roles and experiences. Mark discussed the progress with the Poplar Mountain Conservation Area and expressed appreciation for the support from Administration and Highway and their team members, noting the installation of the new kiosk and trail maps. Mark discussed plans to organize clean up events, offering stump seats for the Elementary School, and partnering with the Library to promote pollinators. Mark discussed the goals of working in the Poplar Mountain Conservation Area to improve trails and blazes. Mark discussed the Commission's work reviewing building permits and permitting under the Wetlands Protection Act. Mark explained that the Commissioners are interested in expanding educational programming for the community and discussed the goals of working to improve property owners' understanding of the impacts of the Wetlands Protection Act.

**Selectman Bastarache** asked for an explanation of the new budget request for trail maintenance. Mark explained some of the challenges with incomplete trails and the goal of funding improvements. Mark discussed a capital request for \$10,000.00 to have the two (2) parcels accurately surveyed. Bryan discussed the potential funding of a future Conservation Agent services to be shared with other towns through the FRCOG. The Select Board and Finance Committee members had no concerns regarding the FY2024 budget request at this time.

***Review of Poplar Mountain Conservation Area Gift Fund Request***

The Select Board members reviewed a memorandum from Bryan, recommending the establishment of a gift fund for the Poplar Mountain Conservation Area. Mark explained the rationale for the request on behalf of the Conservation Commission. The Select Board members expressed support for the request. **Selectman Bembury** made a motion to establish a gift fund for the Poplar Mountain Conservation Area, for use by the Conservation Commission, to receive donations and gifts to expend on the ongoing care, maintenance, and improvement of the Conservation Area. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

***Recess***

At 9:01PM **Chairman Smith** made a motion to recess the meeting and to resume at approximately 9:10 PM. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

At 9:15 PM **Chairman Smith** called the meeting back to order.

***Review of Fire Department & Emergency Management Department FY2024 Budget Requests (revisit)***

Chief Wonkka joined the meeting to review the Fire Department's budget request that totals \$465,820.00, an increase of \$19,681.00 over FY2023. Chief Wonkka discussed the highlights for the current year, noting the work to establish a County-wide wildfire crew. Chief Wonkka provided an overview of the Department goals for FY2024 from the narrative that was submitted with the budget request. Chief Wonkka discussed significant cost changes in electricity and heating oil that are driving increases in the budget request. The Select Board and Finance Committee members had no concerns regarding the FY2024 budget request at this time.

Regarding the Emergency Management Department budget request of \$13,166.00, which reflects an increase of \$62.00 from FY2023, Chief Wonkka explained that the request is mostly level funded. Chief Wonkka discussed the work of the Department during the COVID-19 pandemic and the after-action planning that is occurring regionally. **Chairman Smith** asked if Chief Wonkka was observing a reduction in cases. Chief Wonkka discussed his experience and noting an increase in respiratory illnesses. The Select Board and Finance Committee members had no concerns regarding the FY2024 budget request at this time.

***Firefighter Assistance Safety Grant***

Chief Wonkka added that the Department has been awarded a Firefighter Assistance grant to provide \$10,500.00 that can be used towards a repeater to be installed in an apparatus. **Selectman Bembury** asked about the possibility of adding a secondary tower location in Erving Center. Chief Wonkka explained that he has had preliminary conversations with the State radio engineer, and they are exploring the potential of adding a tower site, using the Town Hall cupola. **Chairman Smith** made a motion to accept the Firefighter Safety grant in the amount of \$10,500.00, and authorize Chief Philip Wonkka, as a signatory. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

***Review of Highway Department FY2024 Budget Request***

Glenn McCrory, Highway Superintendent, joined the meeting to review the Highway Department's budget request that totals \$713,287.00, an increase of \$175,456.00 over FY2023. Glenn discussed the work the Department had done on improving culverts and drainage through projects, specifically on Mountain Road. Glenn discussed the continued challenges with obtaining supplies and related cost increases. For FY2024, Glenn explained that the Department plans to continue improvement work on the stormwater system and culverts. Glenn discussed the costs associated with replacing a culvert and the work that FRCOG did to inventory the structures for the Town and suggested priorities for maintenance and replacement. Glenn explained that the budget request provides funding to allow the Department to conduct the necessary surveying work for all the road projects that are coming up. Glenn explained that the budget request includes restoring annual funding of \$100,000.00 for roadwork improvements and \$5,000.00 for minor bridge repair work. The Select Board and Finance Committee members had no concerns regarding the FY2024 budget request at this time.

***Review of Solid Waste FY2024 Budget Request***

The Select Board and Finance Committee members reviewed the Solid Waste budget request that totals \$215,200.00, an increase of \$7,093.00 over FY2023. Bryan reviewed the significant budget changes and highlights from the narrative that were submitted with the request. The Select Board and Finance Committee members had no concerns regarding the FY2024 budget request at this time.



### ***Review of Town Buildings & Grounds FY2024 Budget Request***

The Select Board and Finance Committee members reviewed the Town Buildings & Grounds budget request that totals \$302,520.00, an increase of \$26,056.00 over FY2023. **Chairman Smith** suggested reducing the ground maintenance capacity as it hasn't fully been needed in the past fiscal year. The Select Board and Finance Committee members expressed general agreement but wanting to understand if service costs may change for the coming year. The topic will be revisited at a future meeting.

### **Review of Bid Documents for Wheelock Street Culvert Replacement Project**

The Select Board and Finance Committee members reviewed the bid documents for the Wheelock Street culvert replacement project. **Chairman Smith** provided an overview of the project and explained that it is anticipated to be fully covered by a grant. **Chairman Smith** explained that the project is currently included on the draft FY2024 capital improvement plan. **Chairman Smith** discussed recommendation for beginning the bidding process as soon as possible out of concern that costs could increase. Bryan explained that the suggested timeline is to release the bid in January 2023 for the Select Board to review bid results and make an award in March 2023 with an anticipated construction period at the end of FY2023 into the first quarter of FY2024. The Capital Planning Committee will consider at their meeting on January 4, 2023, and the Select Board will revisit on January 9, 2023.

### **Discussion Regarding Recycling Center Proposal**

**Chairman Smith** discussed the status of the Town's recycling center, noting that the current setup was not in compliance with regulations and the need to consider potential improvements. Bryan reviewed the memorandum for potential improvements for a recycling center that can be authorized under a General Permit from the Massachusetts Department of Environmental Protection (MassDEP). Glenn suggested that two (2) concrete pads should be poured at an estimated cost of \$29,000.00. Glenn explained that the Highway Department staff can prepare the site. Glenn explained that he estimates a cost of \$5,300.00 to install a retaining wall for the roll-off container area. Glenn also estimated a cost of \$20,000.00 for four (4) twenty-foot-long metal storage containers, delivered and set, to sort and keep materials dry for recycling. Glenn explained that he is waiting for an estimate on asphalt paving and some tree clearing and preparation for a building for staff. **Selectman Bembury** asked about the anticipated timeline to conduct the work. Glenn explained that the permitting can be completed in approximately a month and a half, and the construction could take a few months.

Debra expressed concern about not having a request submitted to the Capital Planning Committee. **Chairman Smith** acknowledged the concern and stated that the Town just became aware of the issue in the last few weeks and is collecting relevant information. Bryan explained that the Town may be able to phase the project and explore grant funding for improvements like other similarly sized towns have done this work. Glenn provided a general overview of the concerns that have been raised about the current operation and the Town's decision to stop collecting material until permitting and improvements are made. **Chairman Smith** asked that the available information is provided to the Finance Committee and the Capital Planning Committee for their next meeting. Daniel expressed support for exploring the cost of each option to accomplish the improvements and maintain services.

At 10:12 PM **Chairman Smith** made a motion to adjourn the joint meeting of the Select Board and the Finance Committee and to continue with the Select Board meeting. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

### **Discussion Regarding Back-up Snow Plowing Practices**

Glenn discussed the plan for back-up drivers for snow plowing. Glenn discussed the challenges experienced by the Highway Department staff during snow plowing season when employees cannot work due to leave or illness. Glenn proposed creating an extra duty detail that could be made available to Town staff that have the necessary training and certification. Glenn explained that he has talked to potential vendors that would expect a contract to guarantee some payment to be on call even if they are not activated. **Selectman Bastarache** expressed concern about assigning the extra duty detail to an active employee and potentially removing an active employee from their day job. The Select Board members acknowledged the concern. **Selectman Bastarache** additionally expressed concern about burnout the risk for employee safety. With that said, **Selectman Bastarache** generally expressed support for the proposal for additional help with plowing and discussed the potential to use a seasonal employee for back-up plowing. The Select Board members expressed support for proceeding with the current proposal and to work to expand the support role for the season next year.

### **Review of Request for Qualifications for Town Hall Feasibility Study**

The Select Board members passed over this agenda item.

### **Discussion Regarding Shared Health Inspection Services- Draft Intermunicipal Agreement**

The Select Board members reviewed the revised draft intermunicipal agreement for shared Health Agent services with the towns of Northfield and Shutesbury. Bryan explained that the revisions are informed by feedback from Town Counsel and the Boards of Health. The Select Board members expressed support for proceeding. **Selectman Bastarache** made a motion to adopt the intermunicipal agreement for local public health services between the towns of Northfield, Shutesbury and Erving, and have Scott Bastarache as the signatory of the agreement, with a term ending December 31, 2025. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

### **Review & Issuance of the 9th Water Commitment for FY2023**

The Water Commissioners reviewed the 9<sup>th</sup> Water Commitment for FY2023 for delinquency fees in the aggregate amount of \$175.00, for the accounts listed. **Chairman Smith** made a motion to approve the 9<sup>th</sup> Water Commitment for FY2023 in the amount of \$175.00. **Commissioner Bembury** seconded. **Vote:** Unanimously approved.

### **Review & Issuance of the 10th Water Commitment for FY2023**

The Water Commissioners reviewed the 10<sup>th</sup> Water Commitment for FY2023 for final use charges at 17 Moore Street, in the amount of \$40.00. **Chairman Smith** made a motion to approve the 10<sup>th</sup> Water Commitment for FY2023 in the amount of \$40.00 for final charges at 17 Moore Street. **Commissioner Bembury** seconded. **Vote:** Unanimously approved.

### **Review of Remote Work Policy- 1st Reading**

The Select Board members conducted a first reading of the draft Remote Work Policy. The Select Board members discussed having no concerns with the draft at this time. The Board will conduct a second reading at the next meeting.

### **Renewal & Issuance of 2023 Liquor Licenses: Retail Package, Inn Keeper, and Pouring**

The Select Board members reviewed a memorandum from Bryan regarding the liquor license renewals for calendar year 2023. **Chairman Smith** made a motion to issue:

- A liquor license restaurant/all alcohol to the French King Bowling Center, 55 French King Highway, effective January 1, 2023, and an expiring December 31, 2023; and

- A liquor license retail package store to Weatherheads, at 63 French King Highway, and to Flis Market, at 5 West Main Street, both effective January 1, 2023, and expiring December 31, 2023; and
- Liquor license innkeeper to French King Motor Inn, 129 French King Highway, effective January 1, 2023, and expiring December 31, 2023.

**Selectman Bastarache** seconded. **Vote:** Unanimously approved.

The Select Board members considered the renewal application for Franklin Grocery, 1 West High Street, for a retail package store license. **Chairman Smith** explained that the business has been closed for most of 2022 and there is uncertainty if a business will use this license in 2023 and discussed how a similar situation was handled by the Board in a previous cycle. Bryan confirmed the understanding. **Chairman Smith** explained that the Town only has three (3) retail package store licenses to issue. **Selectman Bastarache** and **Chairman Smith** discussed general support for renewing the license but not indefinitely if it will not be used. **Selectman Bastarache** suggested providing a renewal with an expiration date of June 30, 2023, unless the license holder can explain how the license will be used. The Select Board members expressed agreement. **Chairman Smith** made a motion to issue a liquor license retail package store to Franklin Grocery, at 1 West High Street, effective January 1, 2023, expiring June 30, 2023. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

#### **Issuance of the 2023 Licenses: General Business, Common Victualer, Auto Class I, II & III, & Amusement Licenses**

The Select Board members reviewed a memorandum from Bryan regarding the business license renewals for calendar year 2023. **Chairman Smith** made a motion to issue:

- A license for automatic amusement devices to French King Bowling Center, at 55 French King Highway, effective January 1, 2023, expiring December 31, 2023.

**Selectman Bastarache** seconded. **Vote:** Unanimously approved.

**Chairman Smith** made a motion to issue a common victualers license to:

- Dunkin Donuts, 63 French King Highway;
- Flis Market, 5 West Main Street;
- Freight House, 11 East Main Street;
- French King Bowling Center, 55 French King Highway;
- French King Motor Inn, 129 French King Highway; and
- French King Restaurant, 127 French King Highway

All effective January 1, 2023, expiring December 31, 2023. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

**Chairman Smith** made a motion to issue:

- Auto repair license to Greenfield Automotive, 38 French King Highway;
- Class I/ agent of vehicle manufacturer license to Tim's RV, Inc., 15 East Main Street;
- Class II/ auto repair and retail license to Rose Ledge Companies, 21 Poplar Mountain Road;
- Class II/ auto repair and retail license to Stoneville Auto, 64 East Main Street;
- Class II/ auto repair and retail license to Tim's RV, Inc., 15 East Main Street;
- Class II/ used vehicle retail license to Erving Equipment, 38 French King Highway; and
- Class III/buy, sell vehicle parts license to Stoneville Auto, 64 East Main Street

All effective January 1, 2023, expiring December 31, 2023. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

**Review Open Meeting Law complaint from Todd Wallack submitted on November 30, 2022, concerning the Board's November 7, 2022 meeting**

**Chairman Smith** explained that the Mr. Wallack filed a complaint about the Select Board's November 7, 2022, meeting, alleging that the Select Board violated the Open Meeting Law as follows:

*The Erving Select Board went into executive session on Nov. 7, 2022, but did not list the topic of the executive session in either the agenda or the minutes of the meeting as required by the Open Meeting Law.*

*The minutes and agenda show that the town believes the executive session was permitted by MGL Ch. 30A, Section 21 (a) (1) [t]o discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual." However, the select board failed to identify the individual on the agenda and minutes. It is also unclear whether the board gave the individual the opportunity to attend the meeting and/or open the meeting to the public.*

*I ask that the Select Board amend the minutes and agenda to identify the topic of the executive session.*

**Chairman Smith** read from the draft response to Mr. Wallack from the Select Board:

*The Attorney General's Division of Open Government has previously determined that a public body may omit identifying information about an individual to be discussed in executive session pursuant to M.G.L. c. 30A, Section 21(a)(1) ("Purpose 1") if the body is concerned about protecting the privacy of the individual. In a determination regarding the North Attleborough Board of Selectmen (OML 2017-74, enclosed here), the Division of Open Government found that the board did not violate the Open Meeting Law when it used the language of Purpose 1 as the meeting notice topic and omitted the name of the individual to be discussed:*

*"When discussing an individual public employee in executive session pursuant to G.L. c. 30A, § 21 (a)(1), a public body may omit identifying information about that employee from the meeting notice where the body is concerned about protecting the privacy of that individual. See OML 2013-141. The Town Manager stated to our office that the Board omitted identifying information about the individual under discussion because the Board was concerned about protecting the privacy of that individual. Accordingly, we find that the meeting notice contained sufficient detail."*

OML 2017-74

*With respect to the November 7, 2022 meeting, the Board was concerned about protecting the privacy of the individual discussed, and therefore the individual's name was omitted from the meeting notice and was not mentioned during the open session when the Board voted to enter executive session pursuant to Purpose 1, as reflected in the minutes of the meeting (meeting notice and minutes enclosed with this letter). The individual discussed during the executive session was given the required 48-hour written notice, with an opportunity to attend the executive session and the option to have the discussion in open session.*

*Based upon the forgoing, the Board did not violate the Open Meeting Law as alleged in your complaint.*


*With this written response, the Board believes it has addressed the issues raised in your complaint. In compliance with the Open Meeting Law and the Attorney General's regulations, the Board submitted a copy of your complaint to the Attorney General's Division of Open Government. By also forwarding a copy of this written response, the Board has notified the Attorney General's Division of Open Government of the action taken by the Board in response to your complaint.*

The Select Board members discussed the draft of the Board's response and discussed support for issuing it as presented. **Selectman Bembury** made a motion to approve the sending and written response to the Open Meeting Law complaint filed on November 30, 2022, dated December 19, 2022. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

#### **Adjournment**

At 10:48 PM **Chairman Smith** made a motion to adjourn. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

Respectfully submitted,



Bryan Smith  
Town Administrator