

Triboard Meeting
Select Board - Finance Committee – School Committee
Thursday, April 21, 2022
Memorial Hall, Memorial Hall Library
2 North Main Street, Andover, MA 01810

I. Call to Order

Select Board Chair, Chris Huntress called the Triboard Meeting to order at 7:01 PM in the Memorial Hall in Memorial Hall Library. Present from the Select Board: Alex Vispoli, Laura Gregory, Melissa Danisch. Annie Gilbert participated remotely.

Others in Attendance: Town Manager Andrew Flanagan, Deputy Town Manager Mike Lindstrom, Town Counsel Tom Urbelis and Director of Finance Donna Walsh, Superintendent of Schools, Dr. Magda Parvey.

School Committee Chair Susan McCready opened the School Committee.
Members present: Tracey Spruce, Lauren Conoscenti, Sandis Wright, Emily DiCesaro.

Finance Committee Kevin O’Handley called the Finance Committee to order.
Members present from the Finance Committee: Paul Monticciolo, Yican Cao, Ken Russo, Mary Ellen Logee, Paul McKay, and Finance Committee Chair, John Barry who participated remotely.

II. Opening Ceremonies/Moment of Silence/Pledge of Allegiance

The meeting began with a Moment of Silence followed by a Salute to the Flag.

III. Annual Town Meeting Warrant and Special Town Meeting Warrant

Both the Annual and Special Town Meeting are scheduled for Tuesday, May 17, and Wednesday, May 18, starting at 7:00 PM in the Collins Center. The Town Manager reported that copies of the proposed order of the Warrant were distributed to members in attendance.

They will proceed with the private articles submitted by Mr. Michael Meyers that include, and in the order of, Articles P1 Covid-19 Public Health Emergency Funds; Article P2 Annual Public Posting of Every No-bid Contract or Agreement; Article P3 Prohibiting Use of Non-Disclosure Agreements; Article P4 Implementing a Performance Management Blueprint for the Town Manager and Superintendent of Schools; Article P5 Covid-19 stipend for Educational Support Professionals; Article P6 Mental Health & Well-Being Special Articles General Fund. These articles will be presented at a Special Town Meeting on Tuesday, May 17th at 7:40 PM. The report will go to the printer tomorrow if the Select Board votes tonight.

The School Committee has no questions for the Board nor does the Finance Committee.

Alex Vispoli moved that the Select Board sign the Annual Town Meeting Warrant. The motion was seconded by Melissa Danisch. Roll call: A. Gilbert-Y, L. Gregory-Y, A. Vispoli-Y, M. Danisch-Y, C. Huntress-Y. Motion passes 5-0.

Alex Vispoli moved that the Select Board sign the Special Town Meeting Warrant. Motion seconded by Melissa Danisch.

Mr. Meyers: Point of Order question: The six articles were generated in a specific order, why have they been reordered with the ARPA/Covid at the back of the list. Chairman Huntress responded that it is the Select Board's decision to schedule and organize the warrant and the articles.

Roll call vote: A. Gilbert-Y, L. Gregory-Y, A. Vispoli-Y, M. Danisch-Y, C. Huntress-Y. Motion passes 5-0.

IV. Special Town Meeting Articles

A. Select Board, Finance Committee and School Committee to consider voting to take a position on the following articles:

Mr. Meyers as the petitioner of the warrant articles provided a commentary on remarks by Ms. Danisch from the last Board meeting questioning the 1200 signatures they collected and that Ms. Danisch made phone calls to people and tried to suppress voter participation and has been reported to the State Attorney General.

Ms. Danisch replied that she has not spoken to or approached any businesses, she has spoken to family and friends who signed the document. Mr. Huntress feels it is every individual's right to discuss the Town Meeting Warrant Articles.

Article P1 Covid-19 Public Health Emergency Funds

Mr. Meyers provided a narrative previously presented at the time of the petition for Article P1 Covid-19 Public Health Emergency Funds, as well as his personal commentary that community participation on this article was not included.

Mr. Huntress responded that all of the meetings for distributing ARPA funds were public, posted, and agendas provided with significant public participation. Town Meeting votes on the Warrant Articles, the Select Board only makes a recommendation to Town Meeting.

Kathy Grant, Morton Street, the \$10.9M in ARPA funding has not been voted on by the public in any way, the Federal rule states that community outreach and engagement resources is required. She stated that Andover did not offer any of the tools for the ARPA funds. She does not feel that \$400,000 earmarked for mental health personnel is adequate and that we need more resources.

Select Board Chair, Chris Huntress responded to the remarks by Kathy Grant. There are no funds being used for the renovation of Town Hall offices but only to provide handicap accessibility for public spaces within the building. They have had similar discussions and conversations on these items at previous meetings.

The Town Manager shared that they looked at the level of participation of surveys that occurred in other communities and learned that those surveys did not provide a sufficient number of responses. They looked at the public participation components offered by other communities and Andover exceeded all of those who responded with the exception of Arlington, which did complete a survey receiving 23 responses. Several communities had public meetings on the ARPA Plan, Andover had four. The ARPA Plan is reflective of prior approvals at the most recent Town Meeting where the community overwhelmingly supported handicap accessibility at the Town Offices, water infrastructure work and water main replacement. Dascomb Road water pipe replacement will allow for future development that will benefit the taxpayers in Andover generating significant tax dollars and is not tied to a prior Town Meeting zoning change.

Mr. Roland Kim, 98 Burnham Road. During a previous Select Board Meeting, the Town Manager referred to meetings held with his service providers and based on prior Town Meeting votes approved the appropriation of money in the Warrant for water and sewer. Mr. Kim does not see how prior town meeting votes allows the Town Manager to extend what was previously voted on for what the ARPA money is intended. It would be better suited to support and compensate the workers who worked through the pandemic and to support businesses who were affected.

Chris Huntress: The Town Meeting articles on Water & Sewer needs and the budget is an appropriate place to act; ARPA funds allow for expenditures for improving conditions for overall water systems and sewer maintenance and not subject to Town Meeting vote but approval by the Select Board.

Town Counsel reported that he and the Finance Director concurred that the money for this subject matter is from a Federal Grant and pursuant to Chapter 44 Section 53A, the money is dispersed by the approval of the Select Board; this particular Warrant Article is an advisory vote only.

Kathy Levine, Kenilworth Road: How is the Chair and Town Counsel confident in the decisions arrived at. The response from the Board was that they remain confident that they have met the requirements of the both the Federal and State Government and have had several public meetings on this and reviewed with Town Counsel and staff.

Alex Vispoli moved that the Select Board recommend disapproval of Article P1 Covid-19 Public Health Emergency Funds. Motion seconded by Melissa Danisch.

Roll call: L. Gregory-Y, A. Vispoli-Y, M. Danisch-Y, A. Gilbert-Y, C. Huntress-Y. Motion passes unanimously 5-0.

Chairperson Susan McCready said that the School Committee has worked with the Superintendent to allocate ESSER Funds and it is their recommendation that Article P1 is not within the School Committee's purview and will forgo taking a position.

Finance Committee Vice Chair Kevin O'Handley said the Finance Committee will vote on Article P1 at their Finance Committee Meeting immediately following this Triboard Meeting.

Article P2: Annual Posting of Every No-bid Contract or Agreement.

Mr. Meyers commented on the records requests for contracts for public relation firms/ contracts with attorneys, etc.

Atty. Urbelis commented that Mr. Meyers received and anyone who asked for received his contract with the Town which is a public record; no one was denied access. Mr. Meyers disputed the response.

Mr. Kim said best practice would be to have the contracts on the Town Website which would be more accessible and the reduce the Public Records requests.

Theresa Peznola, Andover Purchasing Agent, reported that posting purchases under \$10,000 are considered best practices (in the best interest of the Town). Purchases over \$10,000 require three price quotes, and bids are required for purchases over \$50,000. There are items exempt from public bidding. All of the contracts executed in her office are available on the Town Website/Purchasing Department and have been so since July of 2020.

On April 11, Ms. Peznola received a public records request from Mr. Meyers which she responded to and provided the link to the contracts. Contracts not available on the website would be for those companies that are not hired by the Town but by an insurance company.

The School Committee and Finance Committee had no additional questions.

Melissa Danisch moved that the Select Board recommend disapproval of Article P2, Annual Posting of Every No-bid Contract or Agreement. The motion was seconded by Annie Gilbert. Roll call: A. Gilbert-Y, M. Danisch-Y, A. Vispoli-Y, L. Gregory-Y, C. Huntress-Y. Motion passes unanimously on a vote of 5-0.

Article P3: Prohibiting Use of Non-Disclosure Agreements

Karen Kim, 98 Burnham Road provided commentary on Article P3. The purpose of the article is to increase transparency and protect municipal workers. Non-Disclosure Agreements should not be used to protect the powerful at the expense of the individual or used to silence an individual when they terminate employment. The language in the article has a provision for an employee to request a Non-Disclosure Agreement when they feel it is in their best interest. It was noted that eight Non-Disclosure Agreements were in effect and that the Town Manager has offered to release the individuals to release them from the

Non-Disclosure Agreements. It is important to note that these agreements were not issued under the prior Town Manager. All of the agreements had been signed since January 1, 2017. She urges the Board to vote yes on this article to increase transparency and protect municipal employees.

Attorney Urbelis: The current Town Manager has entered into seven settlement agreements with former employees since 2015 and signed by the former employees and Town Manager. In August 2021, the Town Manager announced at a Select Board Meeting that he sent a release form to each of these individuals, which he signed noting that the Agreement could be made public and for the employee to sign the release and return to him. As of today, none of the seven employees have responded. Settlement agreements are part of an employee's personnel file and Public Records Law recognizes Exemption C for personnel files. In Atty. Urbelis' opinion, this proposed warrant article is advisory only and is not enforceable.

Melissa Danisch moved that the Select Board recommend disapproval of Article P3 Prohibiting Use of Non-Disclosure Agreements (NDA's) The motion was seconded by Alex Vispoli. Roll call: A. Gilbert-Y, M. Danisch-Y, L. Gregory-Y, A. Vispoli-Y, and C. Huntress-Y. Motion passes unanimously on a vote of 5-0.

The School Committee Chair said that the only employee the Committee supervises is the Superintendent. The article is very broad and they would not want to tie the hands of the Superintendent. Tracey Spruce, who has worked on a number of settlements in her private practice where all parties felt strongly about having a non-disclosure agreement, feels that this Article P3 is overly-broad.

Lauren Conoscenti moved to recommend Special Town Meeting disapproval of Article P3 Prohibiting Use of Non-Disclosure Agreements (NDA's). Motion seconded by Tracey Spruce. Motion voted 5-0 to recommend disapproval.

Finance Committee had no opinion on Article P3.

Article P4: Implementing a Performance Management Blueprint for the Town Manager and Superintendent of Schools.

Steve Walther, 83 Morton Street: He found that the language of Article P4 was very clear and understandable. The Article would have the Select Board contract with a firm chosen by the Finance Committee to conduct an anonymous review of municipal employees for our Town CEO's (Town Manager, School Superintendent). It would be information available to the Select Board should they choose to use it and an anonymous survey to avoid fears of retribution and to provide a path for employees to offer concerns they may have. At the Select Board Meeting of October 4, 2021, there was a discussion of the Town Manager's performance review which included having more ways for the Board to reach

their own conclusions regarding the Town Manager's leadership and relationships with department heads and other town staff.

Opinion provided by Attorney Urbelis: (who has had nothing to do with the negotiation of the Town Manager's contract). This Warrant Article requires the Select Board to annually contract with an independent employee appraisal firm which puts the burden on the Select Board on an annual basis and is in direct conflict with the Town Manager's contract.

The warrant article also imposes the same requirement on the School Committee in regard to the Superintendent of Schools. Mr. Urbelis has no participation in the execution or negotiation of the Superintendent's contract. Attorney John Foskett, Counsel to the School Committee, provided a statement that under General Laws, Chapter 71 Section 38, the regulations promulgated by the Department of Elementary and Secondary Education specify that the School Committee's evaluation of the Superintendent must conform to requirements and standards and not a Town Meeting blueprint based on an outside contractor use of best management policies. Article 4 directly conflicts with State Law and furthermore, the Superintendent has an individual contract with the School Committee that covers performance evaluations and this article interferes with the contract in the agreement negotiated with the School Committee and the Superintendent.

The School Committee is familiar with the employment process and thanked Atty. Urbelis for pointing out that evaluations are governed by DESE and their regulations.

Emily DiCesaro moved that the School Committee recommend disapproval of Article P4. Lauren Conoscenti seconded the motion. Motion passes 5-0. The Finance Committee did not vote as this article does not pertain to them.

Alex Vispoli moved that the Select Board recommend disapproval of Special Town Meeting Warrant P4. The motion was seconded by Melissa Danisch. Roll call: A. Gilbert-Y, M. Danisch-Y, Gregory-Y, A. Vispoli-Y, C. Huntress-Y. Motion to recommend disapproval passes 5-0.

Article P5: Covid-19 Stipend for Educational Support Professionals

Holly Currier, Instructional Assistant (IA) spoke about Special Town Meeting Warrant Article P5 to provide a Covid-19 stipend for Educational Support Professionals. The IA turnover has been at 40% and retention issues are making their job harder. Holly reached out to other municipalities and the Economic Policy Institute to see how this was being handled by other communities noting that Towns paid the stipend directly to the employee and the employee signed a specific form.

Susan Grecoe, Instructional Assistant, also spoke on behalf of Support Specialists and hourly workers to be awarded a stipend from ARPA funds available for the lowest paid essential educators. She and Holly would not benefit personally from the stipend as they worked remotely; but the stipend would include cafeteria workers, custodians, and others.

Please consider how they might enter into an MOA on the request for an \$800 stipend which was provided to the teachers. The Instructional Assistants went out of their way during the pandemic shutdown and they were told that they did not know if they had a job for the next school year and were not treated respectfully. Atty. Valerio's advice does not address the current article.

Chris Huntress: The article stipulates that \$800 per employee would come from ARPA funds and if employees are deemed ineligible then the Town would set aside a \$300,000 fund from the most recent certified Free Cash to distribute the \$800.

Atty. Urbelis reported on the opinion of Attorney Foskett, that the employees to receive payment are represented by a certified bargaining unit and as conceded by the article, the terms and conditions, including wages are determined by the Collective Bargaining process as described in General Laws Chapter 150E which commits the collective bargaining process solely to the Town as the employer. Town Meeting has no role in the negotiations of those wages and therefore Article P5 injects Town Meeting into the negotiation process.

Susan McCready said that all of the personnel mentioned in this Article are under a contract with a collective bargaining agreement and the School Committee would look to their Labor Attorney for guidance. Emily DiCesaro appreciates the IA's and all the professionals and what they have gone through and we all owe them our gratitude. She would be interested in other creative ways to appreciate and support them. Tracey Spruce clarified that the \$800 was a flat payment for teachers and a part of their compensation from the last round of budget funding and had nothing to do with the Pandemic. Susan McCready said that when the initial school closure happened there were hourly workers who were not working in the school buildings, but the School Committee did take a position to continue paying those employees.

Finance Committee: No comment at this time.

Susan McCready asked the School Committee for a motion on Article P5. Tracey Spruce recommended the School Committee vote disapproval of Special Town Meeting Article P5. Motion seconded by Lauren Conoscenti. Motion passes 5-0.

Alex Vispoli moved to recommend Select Board disapproval of Article P5, Covid 19 Stipend for Educational Support Professionals. Motion seconded by Melissa Danisch. Roll call: L. Gregory-Y, A. Vispoli-Y, M. Danisch-Y, A. Gilbert-Y, C. Huntress-Y. Motion passes unanimously 5-0.

Article P6 Mental Health & Well-Being Special Articles General Fund

On behalf of Mr. Meyers, Mary Lyman, 50 School Street presented. The spirit of the article is to address the fact of what is important coming out of COVID and recognizing that the Opioid crisis got worse and mental health conditions worsened. What better way to use the funds then to use them for the people who need assistance? There are 35,000 people

in this Town and one out of three are going to need assistance. Let's see what we can do to help Andover residents get through this very difficult time.

Andrew Flanagan reported on the funds appropriated in the amount of \$400,000 for mental health needs and that they are using a State Grant to establish a Wellness and Support Division with allocated ARPA Funds for a total amount of just under \$1M allocated from all funding sources. This Town has a long history of not using Free Cash to fund operations.

Tracey Spruce shared that the School Committee has spent a lot of time talking about how they can support our students coming out of the pandemic. The School Committee has a workshop planned on April 28th in the School Committee Meeting Room to specifically talk about Mental Health. They are taking this issue very seriously and allocating significant resources to address this important issue.

Annie Gilbert moved to recommend Special Town Meeting disapproval of Article P6 Mental Health & Well-Being Special Articles General Fund. Motion seconded by Melissa Danisch. Roll call: L. Gregory-Y, A. Vispoli-Y, M. Danisch-Y, A. Gilbert-Y, C. Huntress-Y. Motion passes 5-0.

The School Committee will not be taking a position on this article.

V. Adjourn

At 9:15 PM Alex Vispoli moved that the Select Board adjourn from the Triboard Meeting. Motion seconded by Melissa Danisch. Roll call: A. Vispoli-Y, A. Gilbert-Y, L. Gregory-Y, M. Danisch, C. Huntress-Y. Motion passes 5-0.

On a motion by Tracey Spruce and seconded by Lauren Conoscenti, the Andover School Committee voted to adjourn. Roll call: T. Spruce-Y, S. Wright-Y, E. DiCesaro-Y, L. Conoscenti-Y, Susan McCready-Y. Motion passes 5-0.

On a motion by Mr. O'Handley and seconded by Ken Russo, the Finance Committee voted to adjourn. Roll call: Y. Cao-Y, K. O'Handley-Y, K. Russo-Y, M. Logee-Y, P. McKay-Y, P. Monticciolo-Y, and J. Barry-Y. Motion passes 7-0.

**Respectfully submitted,
Dee DeLorenzo
Recording Secretary**