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**Select Board Meeting**  
Minutes of Monday, May 2, 2022  
School Administration Building  
2<sup>nd</sup> Floor School Committee Conference Room  
30 Whittier Court, Andover, MA 01810

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**I. Call to Order**

Chairman Huntress called the Select Board Meeting of May 2, 2022 to order at 7:05 PM.  
Members present: Alex Vispoli, Melissa Danisch, Laura Gregory and Annie Gilbert who participated remotely.

Others in attendance: Town Manager Andrew Flanagan, Deputy Town Manager Michael Lindstrom, and Town Counsel Tom Urbelis.

**II. Opening Ceremonies**

A. Moment of Silence/Pledge of Allegiance

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

**III. Communications/Announcements/Liaison Reports**

The Town Manager thanked everyone who submitted applications to the Town's Inaugural Participatory Budgeting Program, receiving 60 applications for consideration. A few highlights include Wi-Fi in the Park, additions to Memorial Hall Library of Things that go beyond books, a community message board at Ballardvale playground, and some new benches on Summer Street. More information is available on the Town Website where the projects can be tracked as well as instructions on how to apply for the second round of funding. The Mobil Town Hall will be at Deyermund Field this Friday from 11-2 PM.

Janet Nicosia, Director of Facilities spoke about assisted listening accommodations to be available at Town Meeting this year. The software platform 'Listen Everywhere' will be available along with listening devices installed at Town Meeting to help those with hearing disabilities. They will have live captioning of Town Meeting through the audio system on the big screens, and a QR Code that can be scanned with one's smartphone to receive the live captioning on their own smartphone. The free app, "Listen Everywhere" can be downloaded and people will be able to scan into the room and use their own earphones and hear the audience amplified into their phones. Earphones will be provided at Town Meeting for those that need them. There will be a table at Town Meeting hosted by IT and the Commission on Disability to help people download access to the website.

Tom Urbelis spoke about the last several Select Board meetings where speakers repeatedly attacked the Town Record's Access Officer and himself for invoking the attorney client privilege in response to certain public record requests. They have accused the Town of stonewalling, not being transparent, and not providing information that the public is entitled to receive from an open government, suggesting that the Town should waive or

ignore the Attorney Client Privilege. Atty. Urbelis discussed the responses which the Town has provided to requests for documents and the effect upon the Town.

The speakers' complaints are not with the Town, but with the Massachusetts Supreme Judicial Court, the Supervisor of Public Records, and the Massachusetts Legislature along with the Massachusetts Governor which he discussed each of those in turn along with the responses which the town has provided

Atty. Urbelis reported that on numerous occasions in writing and at public meetings of the Select Board, the Town has cited and referred speakers to the case of Suffolk Construction Company vs Commonwealth Department of Capital Asset Management as a ground for not producing certain documents, decision written by Chief Justice Marshall. Atty. Urbelis spoke about the 2007 Supreme Judicial Court opinion on that case where the issue was whether by enacting the public records law, the Legislature intended to extinguish the protection provided by Attorney Client Privilege to public officers, employees and governmental entities subject to that law.

The Supervisor of Public Records acknowledged that the Public Records Law lists several categories of documents that are exempt from that law but does not list documents subject to attorney client privilege. The legislature enacted, and the Governor has signed, the Open Meeting Law and specifically acknowledges that meetings held to discuss litigation strategy with attorneys may be closed to the public and minutes of those meetings are not available to the public.

In the past 15 years, the legislature has not enacted any other legislation to negate what Chief Marshall said and what the unanimous court did regarding the Public Records Law. The Supervisor of Public Records has specifically acknowledged the attorney client privilege as an exemption to the public records law based upon the Suffolk Construction case and what Chief Justice Marshall articulated.

Attorney Urbelis also reported on the Public Records Laws and specific reasons on why producing documents for public records requests received were denied and why confidential documents will not be produced and specific authority for those reasons. Attorney client privilege decisions have been repeatedly explained to speakers. On April 20, 2022 Records Access Officer, Town Clerk Melissa Ripley wrote to Steven Walther, with regard to communications with Nixon Peabody, and explained in detail why those communications would not be provided.

Town Clerk Melissa Ripley noted that the recent ceremony held by the Andover Community Trust celebrating their 30<sup>th</sup> year of creation included a recognition to Susan Stott one of the founding members.

Alex Vispoli recognized former Andover High School student, EJ Perry on being signed by the Philadelphia Eagles Football Team, congratulations to the entire Perry Family.

Mr. Vispoli remarked on the tragic accident that occurred on Elm Street last week that took the life a pedestrian and has received several communications asking if the Town would be providing a response on what happened and what the Town is going to do to

address safety issues in that area and other areas as well. The Town Manager replied that the Andover Police Department is investigating the accident. He has had communication with a number of residents in the area and they are in the process of putting together a neighborhood meeting. They will wait for the outcome of the investigation to see what the cause is before projecting remedies and looking at a number of different ideas to mitigate the safety in the Elm Street corridor.

Chris Huntress announced that Crafts in the Park will be held this Saturday May 7<sup>th</sup> in The Park with 150 vendors participating.

#### **IV. Citizens Petitions and Presentations**

#### **V. Public Hearings**

##### **A. Discontinuance of a Portion of Lewis Street as a Public Way**

The public hearing opened at 7:38 PM. Atty. Tom Urbelis reported that this is tied in with the Annual Town Meeting where they will be asking the Town to discontinue that portion of Lewis Street. If Town Meeting approves the Warrant Articles be sold as part of the acquisition and disposition of the Town Yard property to the successful bidder, the first step in discontinuing a street or part of a street as a public way is a vote by the Select Board and if approved, would also need to be approved by Town Meeting. Alex Vispoli asked if the discontinuance was part of the original document put out. Atty Urbelis said the RFP included Lewis Street and possibly acquiring other undefined property, this would be in the context of the bid.

Alex Vispoli moved that we, the undersigned members of the Select Board of the Town of Andover in the County of Essex, having held a public hearing at the Andover School Administration Building in Andover on April 25, 2022 at 7:00 PM and having received the report of the Planning Board, do hereby declare that the public necessity and convenience require that the following described portion of Lewis Street be discontinued as a public way.

The area shown as "Portion of Lewis Street to be Discontinued 4,000'+/-on plan of land entitled Discontinuous of Plan, Portion of Lewis Street, Andover, Massachusetts prepared for Town of Andover, January 18, 2022, Scale 1" = 40', Andover Consultants, Inc., 1 East River Place, Methuen, Mass., and a copy of which Plan is on file with the Office of the Town Clerk; and upon approval by Town Meeting, that said portion of Lewis Street be discontinued as a public way in accordance with M.G.L. Chapter 82, Section 21, and the Select Board respectfully report said action to the Town for its allowance. In witness whereof, we said members of the Select Board have unto here set our hands and seals on this 2<sup>nd</sup> day of May, 2022. Motion seconded by Melissa Danisch. The Planning Board has recommended approval.

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

#### **VI. Regular Business**

##### **A. Trustees of the Punchard Free School Appointment**

Trustees of the Punchard Free School Subcommittee to recommend the appointment of a member to the Trustees of the Punchard Free School to a term that will expire on March

26, 2024. Board to consider voting to approve Subcommittee's recommended appointment.

Melissa Danisch reported that she and Annie Gilbert, as subcommittee members, met virtually with six people who were interested in being a Trustee of the Punchard Free School. They interviewed everyone who expressed an interest and decided to recommend Michelle Carlburg.

Melissa Danisch moved to appoint Michelle Carlburg to be a Trustee of the Punchard Free School and to be appointed by the Select Board. Motion seconded by Annie Gilbert. Roll call: A. Vispoli-Y, M. Danisch-Y, L. Gregory-Y, A. Gilbert-Y, C. Huntress-Y. Motion passes unanimously 5-0.

**B. Affordable Property Right of First Refusal**

Board to review and to consider voting to not exercise its right of first refusal to purchase the affordable housing unit at 1 Francis Drive, Unit 1205.

Lisa Schwartz from the Planning Board reported on the affordable unit coming up for sale in a 62+ age restricted senior housing unit on River Road. This is a 'first-come' first serve opportunity for those who qualify and not limited to Andover residents. Andover Community Trust, Denise Johnson, reviews all of the paperwork, income qualifications, and moves the process forward; this is a 'first come-first serve' opportunity for a person(s) who is eligible. The purchase price is \$206,000.

Melissa Danisch moved to not exercise the Select Board's right of first refusal. Motion seconded by Alex Vispoli. Roll call: A. Gilbert-Y, L. Gregory-Y, M. Danisch-Y, A. Vispoli-Y, C. Huntress-Y. Motion passes unanimously 5-0.

**C. Transfer of Land from the Conservation Commission to the Select Board**

Atty. Urbelis reported that this is the second portion of the land swap approved by Town Meeting and a special act of the Legislature. The Select Board has previously signed the deed that transferred the land to the Conservation Commission. The Dog Park is located at 126 Tewksbury Street and the Compost Area on High Plain Road.

Alex Vispoli moved the Select Board move to approve and sign the Transfer of Land from the Town of Andover Conservation Commission to the Town of Andover Select Board for two parcels of land on High Plain Road shown as lot 1 and lot 2 containing approximately 4.401 acres and .677 acres respectively on plan of land in Andover Massachusetts prepared for the Town of Andover on January 20, 2020 by Andover Consultants Inc, as authorized by Chapter 14 of the Acts of 2022. Motion seconded by Melissa Danisch. Roll call: A. Vispoli-Y, L. Gregory-Y, A. Gilbert-Y, M. Danisch-Y, and C. Huntress-Y. Motion passes 5-0 unanimously.

**VII. Consent Agenda**

**A. Appointments by the Select Board**

Alex Vispoli moved that the following appointments of Election Workers be approved. Motion 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 unanimously.

<b>Department</b>	<b>Name</b>	<b>Position</b>	<b>Rate/Term</b>	<b>Date of Hire</b>
Town Clerk	Karen Dobbelaar	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	Nancy Donahue	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	Cynthia Barakatt	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	Amy Janovsky	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	Patricia Dell-Ross	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	Patrick Donahue	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	Edna Allen	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	Betsy Streeter	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	Bonney Streeter	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	James Blatchford	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	George Woodward	Election Worker	\$9.25/hr	3/23/2022
Town Clerk	Susan Yavner	Election Worker	\$9.25/hr	3/23/2022

**B. Appointments by the Town Manager**

Alex Vispoli moved to approve the appointments by the Town Manager as listed in the Consent Agenda. Motion seconded by Melissa Danisch. Roll call: M. Danisch-Y, A. Vispoli-Y, L. Gregory-Y, A. Gilbert-Y, C. Huntress-Y. Motion passes 5-0.

<b>Department</b>	<b>Name</b>	<b>Position</b>	<b>Rate/Term</b>	<b>Date of Hire</b>
Department of Public Works	Patrick Kelly <i>(James Spaulding)</i>	Water Treatment Plant Operator	\$31.18/hr	5/16/2022
Department of Public Works	Cole Johansen <i>(Roland Benjamin)</i>	Water Treatment Plant Operator	\$30.56/hr	5/3/2022
Community Services – Recreation	Paul Miller	Seasonal	\$24.00/hr	4/25/2022
Community Services – Youth Services	Elijah Botkin	Seasonal	\$15.00/hr	5/10/2022
Patriotic Holiday Committee	Andrew Sievert	Member	Term Expires 6/30/2023	5/2/2022

**IX. Executive Session**

A. At 7:59 PM Alex Vispoli moved that the Board go into Executive Session for confidential communication with Town Counsel pursuant to option 6 to discuss the purchase, exchange, lease or value of real property and pursuant to option 3 to discuss strategy with respect to collective bargaining for the America Federation of State, County and Municipal Employees State Council 93 Local 1704 AFL-CIO, Andover Independent Employees Association, Andover Police Patrolman’s Union Massachusetts Coalition of Police Local 477, Andover Police Superior Officers Association NEBPA Local 99, Andover Public Safety Communicators NEBPA Local 109 and International

Association of Firefighters Local 1658 AFL-CIO, and to approve and not release Executive Session Minutes of April 13, 2022 and April 25, 2022, and for the Chair to declare that an open session may have a detrimental effect on the negotiating position of the Town; and not to return to open session. The Chair so declared. Motion seconded by Melissa Danisch. Roll call: A. Gilbert-Y, L. Gregory-Y, Danisch-Y, A. Vispoli-Y, C. Huntress-Y.

Motion passes 5-0.

**X. Adjourn**

At 8:00 PM the Board adjourned from Open Session and moved to Executive Session not to return to Open Session.

*Respectfully submitted,*

*Dee DeLorenzo  
Recording Secretary*

May 2 2022 (3.0)