

Monterey Town Administrator

From: Monterey Town Administrator <admin@montereyma.gov>
Sent: Wednesday, June 22, 2022 12:33 PM
To: Susan Cooper
Subject: FW: [FWD: Re: Employee hours / legal strategy]

For tonight

From: Justin Makuc [mailto:justin@montereyma.gov]
Sent: Tuesday, June 21, 2022 6:21 PM
To: Monterey Administrator <admin@montereyma.gov>
Subject: [FWD: Re: Employee hours / legal strategy]

Hi Melissa,

Please print out a copy of this email chain for Susan to view at tomorrow night's meeting.

Thanks,

Justin

----- Original Message -----

Subject: Re: Employee hours / legal strategy
From: Donna Brewer <dbrewer@miyares-harrington.com>
Date: Fri, June 17, 2022 2:08 pm
To: Justin Makuc <justin@montereyma.gov>

I recommend that you not share the last sentence with Susan outside of executive session, but the rest of it can be passed along in open session if you like.

Donna Brewer
dbrewer@miyares-harrington.com
(617) 804-2423 dd

From: Justin Makuc <justin@montereyma.gov>
Date: Friday, June 17, 2022 at 2:00 PM
To: Donna Brewer <dbrewer@miyares-harrington.com>
Subject: Re: Employee hours / legal strategy

Thank you Donna.

Is this response something that I can share with Susan in open meeting, or would it be appropriate to call Executive Session — if sharing this information in open meeting would damage our litigation position? I would prefer not to have to enter executive session, but want to make sure that I can pass this info along.

Justin

On Fri, Jun 17, 2022 at 10:19 AM Donna Brewer <dbrewer@miyares-harrington.com> wrote:

Hi Justin,

Her lawyer's letter states that she is being retaliated against for making whistleblower-type complaints. Under the law, one cannot be retaliated against if one is a whistleblower. By allowing her to work different hours, we are accommodating her and taking reasonable steps to prevent retaliation. So long as this arrangement does not unreasonably interfere with Town Hall operations, we should continue this arrangement. It will help with the litigation defense.
[*****Last sentence redacted for open session by Justin Makuc on 6/21/22**]

Donna Brewer
dbrewer@miyares-harrington.com
(617) 804-2423 dd

From: Justin Makuc <justin@montereyma.gov>
Date: Friday, June 17, 2022 at 7:01 AM
To: Donna Brewer <dbrewer@miyares-harrington.com>
Subject: Employee hours / legal strategy

Hi Donna,

At our last meeting the Board discussed a change in the Town Clerk's office hours and the following question arose:

In order to accommodate the Town Clerk's request to be separate from the Town Administrator following some unresolved Human Resource issues between the two parties, the Town allowed the Town Clerk to work hours when the Town Administrator is not in the office, mostly nights and weekends. This situation has continued on to different degrees for the past 9 months. Does accommodating the Town Clerk's request for separate hours from the Town Administrator help, hurt, or have no effect on the Town in future potential litigation? I know this is a bit of speculation, but please let us know if there is a plainly obvious answer that could benefit the Town's future as a question of legal strategy.

Thank you,

Justin

Purchasing Policies and Procedures

Approved by:

Effective:

PURPOSE:

To establish purchasing standards and practices consistent with or exceeding state law, and to identify activities and reviews that are centralized for purposes of control within the office of town Selectboard and the activities that are decentralized to municipal departments.

AUTHORITY:

MGL Chapter 30B

POLICY:

The town's goal is to optimize the value received for each tax dollar expended by strict adherence to competitive quotation and bidding requirements and by participation in state and regional cooperative purchasing agreements. The Town seeks to obtain goods and services that will reliably perform their function at the lowest possible cost to the Town.

Please refer to the attached procurement chart for the categories this applies.

Any employees who order materials supplies or services without proper approvals may be subject to disciplinary action. It is the town's policy that any employee who orders materials, supplies or services without proper approvals and adherence to the purchase order process can be held liable for payment.

DIVISION OF RESPONSIBILITY

The town's procurement function is decentralized. Municipal departments should seek the assistance of the Town Administrator/Chief Procurement Officer for assistance in:

- Obtaining quotes
- Issuing bids
- Advertising the bids and
- Preparing bid tabulations and evaluations.

The town's control and oversight of all procurements is centralized in the Town Administrator's office. The Town Administrator and Select Board exercises control of procurements, as it is the sole authority to:

- Approve advertisements for bid
- Approve bid specifications and
- Approve (sign) all contracts for construction and professional services.

PROCEDURES:

QUOTATION AND BIDDING REQUIREMENTS

Quotations and bids will be made in accordance with Chapter 30B of the Massachusetts General laws or can be more restrictive based on the decision of the town Select Board's office.

General Rules:

Purchasing

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If the Town administrator is assisting in the as noted in page one you may want to add your role in the bullets below.

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- **Solicitation of Bids:** When the *Request to Advertise* is approved, bids are solicited and a date, time, and location is established for the receipt of the bids. Vendors wishing to bid must submit their bids to the identified department on or before that time. As bids are received, they must be time and date stamped by the receiving department as proof of receipt. Bids arriving after this deadline are returned un-opened to the vendor marked as a "late bid."
- **Bid Deposits:** The majority of formal bids require bid deposits in the form of certified checks or bid bonds. These must be enclosed with the bids and will be returned to the respective vendors in compliance with the terms of the bid specifications.
- **Bid Opening:** The bids, which must bear the notation as noted in the invitation to bid are publicly opened in the pre-established location by the department's procurement designee with one witness present. Bids are informally tabulated and the apparent low bidder announced pending a complete examination of all bids for verification of totals, and compliance to specifications at a future Select Board meeting.
- **Bid Tabulation:** The department that opened the bids must complete a formal *Bid Tabulation* which analyzes the unit prices, discounts, delivery terms and charges, trade in allowances and all factors to determine the bidder with the lowest bid price. This tabulation should also note if other relevant factors have been met: for example provision of a bid bond. The bid tabulation is made available to the public for inspection indicating the ranking of all bidders and the tabulation becomes a permanent part of the bid file.
- **Lowest Responsive and Responsible Bidder:** Bids should be awarded to the lowest responsive and responsible bidder based on warranties, quality of performance on prior contracts, ability to deliver within prescribed timelines and capacity of bidder to meet the stipulated specifications.
- **Notification of Award:** The office of the town Selectboard will send a notice of award letter to the chosen bidder and request (as applicable):
 - Performance Bonds
 - Labor and Materials Bonds
 - Certificates of Insurance
 - Statement of Compliance with Prevailing Wage Rates
- **Record Retention:** Copies of all bid documents including vendor responses, evaluations and award determinations should be retained in the department that received the bids for a minimum of at least seven years.
- **Multiple "small" procurements are prohibited:** It is contrary to town policy, which is to obtain the most value for each dollar expended, for any department to "split" procurements or do several small procurements for the same class/category of materials and supplies. ~~Each department must review the total quantities and needs of its operations for the full fiscal year and seek at least three quotations if the procurement is estimated to result in the \$3,000 to \$25,000 range or formal competitive bids if it is estimated to cost in excess of \$25,000.~~
- **Sole Source Procurements:** Competitive bids may be waived in instances where there is only one vendor who can provide the relevant equipment, materials or services. In the instance of sole source procurement, supporting documentation must be submitted to the town Select Board's office.

- **Bid Protests:** All departments receiving bids must review and examine them objectively. Any bidder who protests the bid award should be referred to the town Select Board's office. Bidders will be informed to submit their issues in writing with the specific details. The town Select Board's office and town counsel will review the basis of the protest and will respond in writing.

For specific bidding requirements refer to Chapter 30B of the Massachusetts General Laws and other publications issued by the Inspector General's office.

COOPERATIVE PURCHASING AND STATE CONTRACTS

POLICY:

The policy of the Town is that town Select Board (or his their designee) has the authority to join with other units of government in cooperative purchasing plans when the best interests of the Town will be served in terms of maximizing the value of each tax dollar expended. The use of these contracts saves in terms of reduced overhead expenditures as well as in terms of savings from the economies of scale of regional and state arrangements.

PROCEDURES:

- The Town may bid any item or material. Prior to said award the low bid should be compared to regional cooperative bids and state bids for said item to assure that the Town is obtaining the best price.
- The town Select Board (or his their designee) may enter into cooperative arrangements (with other groups of municipalities) to obtain economies of scale for various items such as: chemicals, sand, salt, calcium chloride, fertilizer, motor oil, bituminous material, gravel, office supplies, etc. Municipal departments will procure these materials for the fiscal year from the vendor awarded the contract by the cooperative/regional group of municipalities.

CONTRACTS AND AGREEMENTS FOR GOODS AND SERVICES

POLICY:

The policy of the Town and state statutes require contracts and agreements to be executed for all purchases in excess of \$10,000 or greater. All Town of Monterey contracts and agreements will not be valid unless the following approval procedures and signatures of town officials are in place.

Procedures:

- Upon the award of a contract, the town department procuring the good or service should use a Standard Form Contract. (Does the Town have a standard contract form? Is so, it should be reviewed by legal counsel prior to departments using. Should the Town administrator review the contract before the department sends to the vendor to avoid any issues that the Select board may have?) The contract provides complete and detailed conditions for the performance or delivery of the respective goods or services. The contract is submitted first to the vendor or consultant for their signature. In this manner, the Town will understand that the vendor has accepted the terms and conditions of the agreement.

- The following officials should then sign the agreement for these specific purposes:
 - o The relevant department head shall sign the contract as confirmation that it is an appropriate charge/expense to the department's appropriation.
 - o The accountant shall sign all contracts verifying that there is an appropriation available to fund the contract.
 - o The town Selectboard shall be the final signature on the contract to bind the Town, and as confirmation that procurement requirements were met.
- Prevailing *Wage Rates and Payment* and *Performance Bonds* shall be attached to relevant contracts.
- The purchasing assistant in the town Select Board's office should retain a copy of all contracts, including personal service contracts, executed by the Town. The other original copies shall be distributed to the vendor, town clerk, requisitioning department and to the town accountant.
- All parties who signed the original contract must sign any subsequent amendments to the original contract/agreement.

**DRAFT Annual Operating Budget
Policies and Procedures**

**Approved by:
Effective:**

PURPOSE:

To formalize standards and guidance for the development of the Town's Annual Operating Budget, the review of the proposed budget and the adoption of the budget consistent with sound practices and legal requirements.

AUTHORITY:

MGL Chapter 39
MGL Chapter 40
MGL Chapter 44

BUDGET DEVELOPMENT

POLICY:

Consistent with a date set by the Selectboard but not later than February 10th the town Selectboard Administrator shall submit a *Proposed Operating Budget*, supporting documents and a formal budget message to the Finance Committee. Annual budgets shall be prepared for the General Fund, any Enterprise Chapter 44 §53F 1/2 and all MGL Chapter 44 §53E 1/2 revolving funds that exist.

PROCEDURES:

To assure the completion and submittal of the *Proposed Operating Budget* to the Finance Committee and Select Board in compliance with any bylaw requirements, the following procedures and calendar should be followed:

• **Budget Workshop:**

The Town Administrator shall ~~conduct preliminary budget meetings with departments to provide guidance and instruction to the departments in the preparation and development of their departmental operating budgets. At these meetings, a~~ All relevant budget information shall be provided to each department.

Timeline: Beginning late November through December.

- **Departmental Preparation of Proposed Budget Requests** - Departments should develop their proposed annual budget requests utilizing the worksheets distributed by the Town Administrator and reports received monthly. Wages should be level funded until guidance has been given by the Select Board and Finance Committee later in the budget process.
 - Any overtime requests and requests for temporary staff shall be supported by back up documentation.
 - All expense and capital outlay requests shall be supported by documentation for any

increases.

Timeline: Department heads shall submit their budget requests to the Town Administrator before their scheduled preliminary budget meeting usually held during the month of December.

- **Preliminary Budget Meeting** - The Town Administrator shall hold preliminary budget meetings with each department head, one Select Board member and one Finance Committee member in order to review and modify departmental budget requests in consideration of total Town goals and priorities and in conformance with projected revenue estimates.

The preliminary budget meetings shall review:

- Staffing levels
- Accuracy of budget requests
- Departmental needs by program and subprogram
- Variations in spending needs from the current year
- The department's objectives for the ensuing year
- The department's accomplishments in the current year and
- Changes in program and sub-program statistics and measures.

Timeline: Preliminary Budget meetings shall be completed by the Second Wednesday of January.

- **Finalization of the Preliminary Proposed Budget** – The Town Administrator, ~~Select Board~~ and accountant shall review all the proposed expenditure budgets in consideration with the best available information as to revenue growth including estimated state aid. Based on the finalized estimates of revenue and the recommended use of reserves (Free Cash, General Stabilization Fund, Overlay Surplus etc.) the budget shall then be given to the finalized by the Select Board and shall be provided to the Finance Committee to finalize.
- Proposed summary budgets for the Town's MGL Ch. 44 §53E 1/2 revolving funds shall also be included for review and eventual appropriation by Town Meeting.

Timeline: The Proposed Budget document shall be submitted to the ~~fFinance~~ Finance ~~Ceommittee~~ Committee and Select Board no later than mid-February.

BUDGET REVIEW

POLICY:

The ~~fFinance~~ Finance ~~eCommittee~~ Committee and Select Board shall consider, in open public meetings, the detailed expenditures proposed for each town agency. The ~~fFinance~~ Finance ~~eCommittee~~ Committee and Select Board may require the Town Administrator or any town agency or department to furnish it with additional information to assist it in the review and consideration of the budget.

PROCEDURES:

Finance Committee and Select Board Review

- The ~~Ffinance~~ Finance ~~eCommittee~~ Committee and Select Board shall prepare a budget review calendar for the various departmental budgets and make the calendar available to the public.

- The Finance Committee and Select Board shall have review sessions with the various department heads regarding the budget request and services provided by the department/agency if additional information is needed.

Public Hearing

- In addition to the any additional meetings with the Town Administrator and/or departments, the Finance Committee shall conduct a public hearing on the Select Board's Proposed Budget.
- The format shall provide for comments and questions from the public regarding any aspect of the proposed budget.

Finance Committee Report

- ~~After review of the Select Board's Proposed Budget, the finance committee shall discuss, vote and file a recommended budget (if applicable) for Town Meeting action.~~
- ~~The finance committee shall prepare a written report that sets forth the committee's recommendations with reasons in support to the recommendation.~~

BUDGET ADOPTION

POLICY:

Town Meeting must adopt the budget by June 30th. The budget to be acted upon by Town Meeting is the budget as agreed upon by the Finance Committee and Selectboard. In the case of any budget items where the 2 boards do not concur, both figures will be presented to Town Meeting. Town Meeting's budget adoption vote may ~~delete change or decrease~~ any programs or amounts; it cannot delete expenditures required by law or for debt service.

If the Town Meeting fails to take any action on the Select Board's Proposed Budget it shall become part of the appropriations for the ensuing fiscal year and shall be available for the purposes specified as of July 1st.

PROCEDURES:

- The Town Clerk shall forward the certified meeting minutes with the adopted appropriations to the Accountant and Town Administrator within ten (10) calendar days of the Town Meeting so that all appropriations can be recorded in *the Budget Module* of VADAR and posted to the General Ledger.

Monterey Town Administrator

From: Contact form at Monterey MA <cmsmailer@civicplus.com>
Sent: Tuesday, June 14, 2022 11:00 AM
To: Select Board
Subject: [Monterey MA] Parks Commission Request (Sent by Tracey Brennan, [REDACTED])

Hello Select Board,

Tracey Brennan ([REDACTED]) has sent you a message via your contact form (<https://www.montereyma.gov/user/671/contact>) at Monterey MA.

If you don't want to receive such e-mails, you can change your settings at <https://www.montereyma.gov/user/671/edit>.

Message:

Dear Select Board,

I am writing on behalf of the Parks Commission. In our efforts to be stewards of our parks, we are concerned about the use of the town beach by increasing numbers of people not residing in Monterey. The beach is the "jewel" of our town parks. It is a small and fragile place. We would like to explore every option for conserving it, so that it can continue to serve the town into the future. We would like to speak with the Town Attorney in order fully to understand the town's legal rights, especially in regard to restricting parking as has been done in the past. We need your permission in order to go forward with the attorney. Thank you for your attention to this matter. Please let me know if you have any questions.

Sincerely,

Tracey Brennan
Parks Commission

Policy Concerning Employee Responses to Communication from Select Board members

The Select Board is the chief executive body in Town government. Although it can only take official action as a Board, its members must research and learn about Town government functions on their own to perform effectively. As such, communication between its members and the Town's appointed employees and officials should be considered a priority. It is a reasonable expectation that substantive communications should be answered promptly, within three business days or the next day that an employee is regularly scheduled to work, whichever comes later. Some responses may be more urgent and should be responded to as soon as possible, while other responses might warrant a longer response time, in which case the appointed employee or official should inform the Select Board member of the need for additional time. In addition, employee's responses should also strive for completeness, ensuring that all questions asked are answered fully or a reason provided regarding why an answer is incomplete.

Adopted 6/22/22

Capital Items/Projects	Purch in Original Cost	Est. Lfe (yrs)	FY23 estimates	FY24 estimates	FY25 estimates	FY26 estimates	FY27 estimates	FY28 estimates	FY29 estimates	FY30 estimates	FY31 estimates	FY32 estimates	FY33 estimates	FY34 estimates	FY35 estimates	FY36 estimates	FY37 estimates	FY38 estimates	FY39 estimates	FY40 estimates
Town Hall	\$18,000.00	10																		
Paint Town Hall	\$22,000.00	10																		
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Paint Town Hall	\$18,000.00	10																		
Excavator	\$65,000.00	12																		
Grader	\$350,000.00	20+																		
Loader w/boom	\$172,000.00	10-12																		
Highway																				
Library Dam																				
Floor																				
Meeting Room																				
EMS services	\$12,622.00																			
Fund	\$31,827.00																			
Retiree Stab	\$75,000.00																			
Fund	\$75,000.00																			
Stabilization	\$4,000.00																			
(1/3 of offices	\$4,000.00																			
Comp/Printers	\$7,000.00	5-7yrs																		
Copier	\$8,000.00	5-7yrs																		
Finish Basement	\$60,000.00	once																		
Driveway	\$55,000.00	15-20																		
Town Hall	\$22,000.00	10																		
Paint Town Hall	\$18,000.00	10																		
Library Dam																				
Highway																				
Loader w/boom	\$172,000.00	10-12																		
Excavator	\$65,000.00	12																		
Grader	\$350,000.00	20+																		
Tandem Axle will	\$175,000.00	20																		
replace Kenworth																				
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