

## Monterey Town Administrator

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**From:** Contact form at Monterey MA <cmsmailer@civicplus.com>  
**Sent:** Tuesday, September 6, 2022 5:43 PM  
**To:** Select Board  
**Subject:** [Monterey MA] Lake Buel- 24 Seven Arts Road & Camp Half Moon (Sent by Kyle S. Haver, [kshaver@camphalfmoon.com](mailto:kshaver@camphalfmoon.com))

Hello Select Board,

Kyle S. Haver ([kshaver@camphalfmoon.com](mailto:kshaver@camphalfmoon.com)) 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:

September 6, 2022

Greetings

Now that the 2022 summer season at Lake Buel has ended, I have the opportunity to reflect on my experiences with the new owners at Camp Half Moon and how challenging this first year was for my family and me.

First, some history: my family arrived at Lake Buel in the mid-1950s, purchased the old Littlecrest Camp in 1959, and then re-opened the property as 7 Arts. I have spent summers at Lake Buel for over 63 years... and Camp Half Moon has been our neighbor since 1959. We have always had ways to work together. Sadly, this summer was a very different summer.

In hindsight, I should have contacted the Monterey Police Department as soon as I noticed significant problems with the new Camp Half Moon. But here we are...

Obstructing the Right-of-Way: The 2022 summer started when I was confronted by a man who moved in front of my car as I turned onto the dirt road leading to 24 Seven Arts Road. I have never been stopped before, and this time I was met by an unshaven man in a dark blue windbreaker who got out of an old Ford Pickup. I noticed the gun rack on the truck's back window as he approached me. The first words out of his mouth as he stood in front of my car were, "Who are you, and where are you going?" As his tone was problematic and aggressive, I calmly replied I was going to my house. I then asked who he was. He replied that the camp hired him to do security. He did not have any ID card, nor did he show me any identification that supported his claim. Never seeing this person before, nor did I know if he had weapons on his person, I remained calm. After a brief "stare-down," He let me pass. I then contacted the camp to complain. In hindsight, I should have reported this to the Monterey Police Department first, but I did not want to burden the police as it was not an emergency.

Noise levels: Multiple times, music and loud voices were heard from the camp's grounds. This was not unusual in the past when the old Camp Half Moon had intra and inter-camp competitions. But the old camp's noise was limited to a few days during the summer and always during the daylight hours. Children's laughter and joy was always welcome. But again, this year was very different. In addition to the campers enjoying themselves at the waterfront, counselors often used bullhorns and drums to add to the chants and loud music played. I cannot

imagine how the lifeguards could hear a camper in distress with all that loud music being played. Nor did I see how they monitored the swimming and boating...

Late Evening Music and Dancing: Our cottage, 24 Seven Arts Road, is on the shore of Lake Buel. We are not next to the camp's property line on the top of the hill owned by the Seven Arts Condo Association. Even so, there were multiple times we heard loud music and campers/counselor voices into the late evenings. The old camp played evening "taps" in the past, and all the cabins were quiet. This was NOT the case this year. These late-night noise disturbances often reached our house ~~down by the lake~~. I cannot imagine how loud this noise was to the cottages that share the property line with the camp!

Dangerous Boating: During the summer, there were repeated times that campers were boating directly in front of our property, used our dock and raft for their play, and some even landed their kayaks on our property. It was not clear if the campers were taught how to use these boats. Many did not seem to be able to control the boats. The "old" Camp Half Moon made sure all campers could swim and tested them on controlling their boats before allowing them to leave the waterfront. It is not clear if the lifeguards did the same this year.

This pattern of campers boating around our docks continued even after we contacted the camp director, expressing our concern that a camper might get injured on our raft/dock and that this was private property. This pattern of campers boating around the rafts was repeated throughout the summer. I know Seven Arts Condo Association contacted the camp director about this boating issue.

Low-flying drone on Lake Buel: On another occasion, the camp used a low-flying drone on the lakefront. The controller also directed the drone in front of our house. No, it was not limited to the camp's waterfront or campers. If the drone were used for water safety and supervision of the watercraft, that would be very, very different. In truth, I was told it was being used for the camp's social media. I have always respected the privacy of our Lake Buel neighbors and maintained a distance from the lakefront and other boats. it would be nice if the camp did too.

Camp rented after the summer camp ended: This has never happened before. After the summer campers and counselors left, the camp was rented out to a new group. As a result, it was no longer used as a summer camp. Evening and early morning gatherings were accompanied by loud noises and music that interrupted the quiet Labor Day weekend. Was this commercial use permitted by the Town of Monterey? Were adjoining property owners appraised of this additional rental?

In the past 60 years, we have never needed to ask to review Camp Half Moon's occupancy permit with the Town of Monterey. But this year was different. Very different. Yes, we all know it was the first year of this new camp, and it will take some time to work out some of the challenges... but the loud camp noises after 8 p.m. and before 8 am were new...and the poor supervision at the Lakefront put campers at risk and the lack of community awareness made for tensions with the neighbors.

I am now requesting access to the 2022 permit the owners submitted to the Town of Monterey. I also would request the Town and the Select Board work with the camp and the neighbors to find some solutions to these and other issues that emerged, so that next summer starts off with shared respect and understanding.

Respectfully submitted

Kyle S. Haver  
24 Seven Arts Road  
Seven Arts Management, LLC



## *Town of Monterey Memorandum*

**TO:** Parks Commission

**FROM:** Select Board

**DATE:** 9/13/22

**SUBJ:** Request for additional funds for Greene Park Ballfield renovation

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The Select Board has received the Parks Commission's request for additional funding in the amount of \$10,000 for renovating the Greene Park Ballfield, sent by Chair Steve Snyder. We considered this request at our September 7th meeting, and ask for the following additional information.

Please provide us with an update on the funds in line 630 - Park Commission, which was allocated \$17,800 at Town Meeting. Out of these funds, how much has been spent already? Out of the remaining funds, how much is already allocated to projects and recurring expenses (please list with as much detail possible)? How much money out of this line could the Parks Commission reasonably contribute to the renovation of the ballfield?

Please provide us with an update on the estimates/bids for this project. How much will the renovation of the ballfield cost?

Answers to these questions can help the Select Board determine how to help the Park Commission in its goal of renovating the Ballfield—whether it be through a Special Town Meeting article, ARPA funds, or otherwise.

Please let us know if you have any questions.

Sincerely,

Justin Makuc, Chair

Susan Cooper

Scott J Jensen



## *Town of Monterey Memorandum*

**TO:** Conservation Commission

**FROM:** Select Board

**DATE:** 9/14/22

**SUBJ:** Request for additional funds for agent

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The Select Board has received the Conservation Commission's request for additional funding for the agent position, sent by then Chair Chris Blair. We considered this request at our September 7<sup>th</sup> meeting, and offer the following guidance.

The Board requests that the Commission review the Town's application fees and considering increasing the fees in order to offset increased costs of postage, advertising, and the Commission's agent. The Commission might start by comparing Monterey's fees to those of surrounding towns.

The Board recommends that the Commission continue to utilize the agent as necessary to complete the essential work of the Commission, and pay the agent out of the appropriate revolving funds. If the increased fees do not fully cover the costs of administrative items and the agent, it is the Board's understanding, based on guidance from the Town Accountant, that the revolving account can legally be spent below \$0. Please continue to pay the agent as necessary to make sure that all work is properly completed.

During the budgeting process for the Annual Town Meeting, the Commission and the Board should reassess the situation to determine if additional funds are required to fund the agent position beyond those collected by fees. Should additional funds be required, a transfer may be made to the revolving funds to cover any deficits at the Annual Town Meeting in May. The Board finds this approach to be superior to funding the agent at an upcoming Special Town Meeting because it will allow the Town to have a better understanding of the funds necessary to pay an agent over a longer time frame in the current arrangement.

Please let us know if you have any questions.

Sincerely,

Justin Makuc, Chair

Susan Cooper

Scott J Jensen

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**Subject:** RE: Office hour proposal

**From:** clerk@montereyma.gov

**Date:** Thu, Sep 08, 2022 6:10 pm

**To:** "Justin Makuc" <justin@montereyma.gov>, "hr@montereyma.gov" <hr@montereyma.gov>, "susan@montereyma.gov" <susan@montereyma.gov>, "scott jenssen" <scottjenssen9@gmail.com>

Hi Justin,

Again thanks for the BOS proposal for my new hours. As originally requested by the BOS, my proposal is for working two non consecutive work days and eliminating discretionary hours. Please contact my attorney if you have any questions or concerns.

My proposal is:           Wednesday 10 am to 7 pm    9.00 hours  
                                  Friday 9 am to 7:45 pm    10.75 hours

NO discretionary hours  
Saturday hours by appointment only

I can not attend a BOS meeting until October 12th. I am trying to cooperate and meet the needs of the Monterey residents.

Thank you,

Terry Walker  
Monterey town clerk

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

Subject: RE: Office hour proposal

From: "Justin Makuc" <justin@montereyma.gov>

Date: Wed, September 07, 2022 12:56 pm

To: "clerk@montereyma.gov" <clerk@montereyma.gov>

Hi Terry,

Please let me know of your availability to meet with the Select Board next week (9/12-9/16) to discuss your Town Clerk schedule. Please let me know of a couple available times in that window by Friday 9/9 at 5:00pm latest.

If you provide available times on Friday, please limit your available dates and times Wednesday 9/14 to Friday 9/16 so that we can post the meeting 48 hours in advance.

Thank you,

Justin

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

Subject: RE: Office hour proposal

From: "Justin Makuc" <justin@montereyma.gov>

Date: Mon, September 05, 2022 9:28 pm

To: "clerk@montereyma.gov" <clerk@montereyma.gov>

Hi Terry, just wanted to follow up about your availability for meeting with the board on Thursday the eighth or Friday the ninth. If you are unable to meet with the Board on one of those two days, please let me know days and times that work for you the following week so that we can coordinate a meeting.

Thank you,

Justin

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

Subject: Re: Office hour proposal  
From: Justin Makuc <[justin@montereyma.gov](mailto:justin@montereyma.gov)>  
Date: Fri, September 02, 2022 1:44 pm  
To: [clerk@montereyma.gov](mailto:clerk@montereyma.gov)

Hi Terry, thanks for getting back to me. Do you have any availability for meeting with the board on Thursday the eighth or Friday the ninth?

Justin

On Fri, Sep 2, 2022 at 12:16 PM <[clerk@montereyma.gov](mailto:clerk@montereyma.gov)> wrote:

Hi Justin,

I am not available on Wednesday 9/7 at 1:00 besides I have to make sure my attorney can be present at the meeting.

Terry

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

Subject: RE: Office hour proposal  
From: "Justin Makuc" <[justin@montereyma.gov](mailto:justin@montereyma.gov)>  
Date: Thu, September 01, 2022 7:51 pm  
To: "[clerk@montereyma.gov](mailto:clerk@montereyma.gov)" <[clerk@montereyma.gov](mailto:clerk@montereyma.gov)>

Hi Terry,

Are you available next Wednesday 9/7 at 1:00pm to discuss this?

Justin

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

Subject: RE: Office hour proposal  
From: <[clerk@montereyma.gov](mailto:clerk@montereyma.gov)>  
Date: Thu, September 01, 2022 9:05 pm  
To: "Justin Makuc" <[justin@montereyma.gov](mailto:justin@montereyma.gov)>, "[susan@montereyma.gov](mailto:susan@montereyma.gov)" <[susan@montereyma.gov](mailto:susan@montereyma.gov)>, "scott jenssen" <[scottjenssen9@gmail.com](mailto:scottjenssen9@gmail.com)>, "[hr@montereyma.gov](mailto:hr@montereyma.gov)" <[hr@montereyma.gov](mailto:hr@montereyma.gov)>

Thanks for the your proposal for new office hours and hopefully we will have a discussion when I am present. I have forwarded to my attorney for review.

Terry Walker  
Monterey Town Clerk

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

Subject: Office hour proposal  
From: "Justin Makuc" <[justin@montereyma.gov](mailto:justin@montereyma.gov)>  
Date: Thu, September 01, 2022 2:11 am  
To: "[clerk@montereyma.gov](mailto:clerk@montereyma.gov)" <[clerk@montereyma.gov](mailto:clerk@montereyma.gov)>

Hi Terry,

9/12/22, 5:24 PM

Workspace Webmail :: Print

Please see attached letter from the Select Board  
regarding your proposal for office hours.

Thank you,

Justin

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## Monterey Town Administrator

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**From:** hr@montereyma.gov  
**Sent:** Wednesday, September 7, 2022 2:35 PM  
**To:** susan@montereyma.gov; scott@montereyma.gov; Justin Makuc; Monterey Administrator  
**Subject:** Policies, post meeting requests  
**Attachments:** Anti Discrimination Harassment Policy 9.7.22.docx; Professionalism Policy aka Code of Conduct.docx; Vacation Policy and Holiday Policy questions 7.21.22.docx; Holiday Pay Exerts from other Towns.docx

Hello,  
Please review the attached.

*Attached you will find:*

- The anti discrimination and harassment policy, when the handbook has been updated this policy will meet our requirements for the sexual harassment policy as well. I had forgotten that I did send you one last week as well, but please use the most recent one attached.
- The professionalism policy, which I would like to call the code of conduct.
- Holiday pay examples from other towns.
- Questions surrounding the vacation and holiday policies.

Let me know if I missed anything and if you would like an one on one time to discuss.

Thank you,

**Sophia Bletsos**  
Human Resources Director  
Town of Monterey



# Anti- Discrimination and Harassment Policy

## Introduction

The Town of Monterey strives to create and maintain a work environment in which people are treated with dignity, decency and respect. The environment of the Town should be characterized by mutual trust and the absence of intimidation, oppression and exploitation. The Town of Monterey will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy, Town of Monterey will seek to prevent, correct and discipline behavior that violates this policy.

All employees, regardless of their positions, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension, or termination of employment.

Managers and supervisors who knowingly allow or tolerate discrimination, harassment or retaliation, including the failure to immediately report such misconduct to human resources (HR) or the Select Board, are in violation of this policy and subject to discipline.

## Definitions

The Town of Monterey, in compliance with all applicable federal, state and local anti-discrimination and harassment laws and regulations, enforces this policy in accordance with the following definitions and guidelines:

**Discrimination-** It is a violation of Town of Monterey's policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, sex, sexual orientation, gender identity or expression, genetic information or marital status.

Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967 and

the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination.

**Harassment-** Town of Monterey prohibits harassment of any kind, including sexual harassment, and will take appropriate and immediate action in response to complaints or knowledge of violations of this policy. For purposes of this policy, harassment is any verbal or physical conduct designed to threaten, intimidate or coerce an employee, co-worker, or any person working for or on behalf of Town of Monterey.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, age, sex, sexual orientation, pregnancy, appearance, disability, gender identity or expression, marital status or other protected status, including epithets, slurs and negative stereotyping.
- Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital status or other protected status.

**Sexual harassment-** Sexual harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under Town of Monterey's anti-harassment policy. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment is defined as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature ... when ... submission to or rejection of such conduct is used as the basis for employment decisions ... or such conduct has the purpose or effect of ... creating an intimidating, hostile or offensive working environment."

Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:

- Is made explicitly or implicitly a term or condition of employment.
- Is used as a basis for an employment decision.
- Unreasonably interferes with an employee's work performance or creates an intimidating, hostile or otherwise offensive environment.

Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or "kidding" that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.
- Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters, notes, facsimiles, e-mails, photos, text messages, tweets and Internet postings; or other forms of communication that are sexual in nature and offensive.
- Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.

Courteous, mutually respectful, pleasant, non-coercive interactions between employees that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

## **Retaliation**

No hardship, loss, benefit or penalty may be imposed on an employee in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

Lodging a bona fide complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation.

Any person who is found to have violated this aspect of the policy will be subject to discipline up to and including termination of employment.

## **Confidentiality**

All complaints and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis. The identity of the complainant is usually revealed to the parties involved during the investigation, and the HR director will take

adequate steps to ensure that the complainant is protected from retaliation during and after the investigation. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within the HR department.

## **Complaint Procedure**

The town of Monterey has established the following procedure for lodging a complaint of harassment, discrimination or retaliation. The Town will treat all aspects of the procedure confidentially to the extent reasonably possible.

1. Complaints should be submitted to the HR Director or Select Board as soon as possible after an incident has occurred, preferably in writing. The HR director may assist the complainant in completing a written statement or, in the event an employee refuses to provide information in writing, the HR director will dictate the verbal complaint.
2. Upon receiving a complaint or being advised by a supervisor or manager that violation of this policy may be occurring, the HR director will notify the Select Board and review the complaint with the Town's legal counsel.
3. The HR director will initiate an investigation to determine whether there is a reasonable basis for believing that the alleged violation of this policy occurred.
4. If necessary, the complainant and the respondent will be separated during the course of the investigation, either through internal transfer or administrative leave.
5. During the investigation, the HR director, together with legal counsel or other management employees, will interview the complainant, the respondent and any witnesses to determine whether the alleged conduct occurred.
6. Upon conclusion of an investigation, the HR director or other person conducting the investigation will submit a written report of his or her findings to the Town. If it is determined that a violation of this policy has occurred, the HR director will recommend appropriate disciplinary action to the Select Board. The appropriate action will depend on the following factors:
  - a) the severity, frequency and pervasiveness of the conduct;
  - b) prior complaints made by the complainant;
  - c) prior complaints made against the respondent; and
  - d) the quality of the evidence (e.g., firsthand knowledge, credible corroboration).

If the investigation is inconclusive or if it is determined that there has been no violation of policy but potentially problematic conduct may have occurred, the Select Board may recommend appropriate preventive action.

7. The Select Board will review the investigative report and any statements submitted by the complainant or respondent, discuss results of the investigation with the HR director and other management staff as appropriate, and decide what action, if any, will be taken.

8. Once a final decision is made by the Select Board, the HR director or Select Board will meet with the complainant and the respondent separately and notify them of the findings of the investigation. If disciplinary action is to be taken, the respondent will be informed of the nature of the discipline and how it will be executed.

## **Corrective Action**

If it is determined that inappropriate conduct has been committed by one of the Town's employees, the Town will take such corrective action as is appropriate under the circumstances. This may range from counseling to termination from employment or may include such other forms of training and/or disciplinary action as deemed appropriate under the circumstances.

## **Alternative legal remedies**

In addition to the above, if you believe you have been subjected to harassment of any type, including sexual harassment and retaliation, you may file a formal complaint with either or both government agencies set forth below. Using the Town's complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies requires that claims be filed within 300 days from the alleged incident or when the complainant became aware of the incident.

### **United States Equal Employment Opportunity Commission ("EEOC")**

JFK Federal Building 15 New Sudbury Street, Room 475  
Boston, MA 02203  
(800) 669-4000

### **Massachusetts Commission Against Discrimination ("MCAD")**

#### Boston Office:

One Ashburton Place, Room 601  
Boston, MA 02108  
(617) 994-6000

#### Springfield Office:

436 Dwight Street, Room 220  
Springfield, MA 01103  
(413) 739-2145

#### Worcester Office:

484 Main Street, Room 320  
Worcester, MA 01608  
(508) 453-9630

## **Reasonable Accommodation**

Consistent with the requirements of the Americans with Disabilities Act (ADA), as amended by the ADA Amendments Act, the Massachusetts Fair Employment Law, and all applicable state or local law, the Town will reasonably accommodate qualified individuals with a disability if such accommodation would

allow the individual to perform the essential functions of the job, unless doing so would create an undue hardship.

Any individual seeking a reasonable accommodation may submit a request to the Select Board. The Town may require the individual to participate in an interactive discussion in connection with any such request. Furthermore, individuals requesting a reasonable accommodation may not receive the specific accommodation requested if the Town determines that an alternate accommodation would be effective in allowing the individual to perform the essential functions of the job.

## **EMPLOYEE CONDUCT POLICY**

### **Introduction**

The Town of Monterey strives to create and maintain a positive work environment while recognizing that public employment is a public trust. This means the affairs of government must be conducted openly, honestly and impartially, and employees must be courteous and show respectful behavior towards all residents, customers and co-workers. The Town of Monterey adopts this Employee Conduct and Work Rules Policy to ensure orderly operations and provide the best possible work environment. The Town of Monterey expects employees and others who are engaged to provide services, such as temporary personnel, consultants and independent contractors, to follow these rules of conduct while on Town premises, attending company functions or otherwise performing work-related activity.

In addition to maintaining and enforcing this policy to protect the interests and safety of all employees and the Town, the Town of Monterey complies with all applicable federal, state and local laws and regulations concerning employer/employee rights and obligations.

The Town of Monterey is responsible for providing a safe and secure workplace and strives to ensure that all individuals associated with the Town are treated in a respectful and fair manner. Though it is not possible to list all forms of behavior that are unacceptable in the workplace, the following are examples of behavior that would be considered infractions of Town and rules of conduct. Such behavior may result in disciplinary action, up to and including termination of employment. This list is not intended to be exhaustive:

### **Employee Standards of Conduct**

All employees are expected to:

- Be on time and work their workday unless instructed differently.
- Conduct personal business, including, but not limited to, personal phone calls and personal conversations, outside of their work location and workday.
- Not perform work from any outside employment while on the job, including but not limited to work for other municipalities.
- Respect the individual rights and privacy of others while providing a consistent quality of service to all.
- Not disclose personal or confidential information about employees, residents, customers or other individuals unless authorized by the Department Head or Town Administrator.
- Perform all duties assigned by your Department Head or designee.
- Work as a team, be supportive of each other and work to ensure the best interests of the Town govern your actions at all times.

- Complete and file your own time cards on time with your Department Head, as well as any other required forms.
- Notify your Department Head (or Town Administrator in their absence) if you are going to be late coming into work or will be out of the office.
- Notify Department Head if you are unable to work or are planning vacation time. For emergencies notify Department Head (or Town Administrator in their absence) as soon as possible in regards to the situation. Vacation time requests should be submitted to Department Heads for approval a minimum of 3 weeks in advance.
- Adhere to standards of conduct required by State Ethics and Conflict of Interest laws.
- Wear proper, professional attire unless you are required to wear supplied clothing or carry assigned equipment.
- Use Town tools, equipment, supplies and property in a safe and prescribed way and only as authorized for official activities. Excessive personal use of Town telephone, computers or other facilities is prohibited, and where observed will be discussed by the Town Administrator with the employee
- Not deface or damage any property belonging to the Town, its customers, residents, vendors or other employees
- Accept personal responsibility for all your actions

**Commented [A1]:** We need to decide a standardized process for this, is texting acceptable or does it at least need to be a phone call.

**Commented [H2]:** This is just an example of how we want to word this, this is also where we should think about a deterrent measure for offenders.

#### **Department Head Standards of Conduct**

Department Heads set the tone for their departments and are responsible for the overall conduct and performance of their employees.

As such, in addition to the above Employee Standards of Conduct, Department Heads shall:

- Manage the work of their department to serve the best interests of the Town and cooperate with other departments.
- Manage employees fairly and equitably; clearly communicate expectations of job performance; recognize and reward acceptable work; discuss any actions needed to improve performance; and when needed, implement performance improvement procedures in a timely manner.
- Manage your department's finances in accordance with Town budget.
- Provide a safe, professional, and supportive work environment.
- Serve the public, employees and residents with respect.



- Avoid placing yourself in a position that could interfere with or create the impression of interfering with the objective evaluation and direction of your employees.

**Commented [A3]:** This section feels better suited to be placed in the department head job description, or do you feel it is important for all employees to be aware of these standards?

### Violations

Subject to the above, the following are considered violations for which disciplinary action, up to and including termination.

## Vacation Policy

The full time employee portion of this policy is heavily dictated by the by law, as you know. If we want to include part time employees in this benefit, we have more freedom but I need us to decide on the options that follow.

Creating a part time employee benefit for vacation time. Each section is a different part of the policy that needs to be decided upon.

### Execution of benefit:

1. Give employee(EE) a balance upon hire (first day).
2. Give EE a balance after a probationary period.

### Criteria to determine an EEs balance:

1. Have the EE accrue/accumulate time based on average hours worked, on an anniversary year cycle or fiscal cycle.
2. Have an employee's balance dictated by their seniority (years worked for the town).

\*These are just a few ways but this section is flexible, we should choose a method that is easily tracked, if questioned.

### Exclusions:

We need to add a minimum amount of hours to qualify for PT vacation. We should have a seasonal employee classification. We probably don't want this benefit for someone who only works only a few times a year.

### Caps:

What is the max amount of vacation a part time employee can accumulate? We want this because we don't want the benefit to exceed the person's commitment to the town if they aren't full time.

### Carry over:

1. A person's balance is lost if it isn't used by the renewal date we choose.
2. The person can carry over the balance in to the next cycle (not fun to track and usual leaves people with more time than they can actual use).
3. The town cashes out any vacation time that is not used by the renewal date.

Commented [M1]: I thought earned time had to be paid?

Commented [M2]: I would just add a comment to the board that this will require an additional line item on the budget

I will need a decision for each of these sections if we are going to proceed.

### Additional Questions/comments for the overall policy:

1. Can an employee use vacation before it has been accrued?
2. We need to commit to what type of notice is required.
3. Consequence and acceptations for not giving reasonable notice.
4. We need to firm up or change our carry over policy.

## Holiday Pay

It looks like details regarding holiday pay need to be solidified a bit more.

Questions/comments I need clarity on:

1. Do part time employees get holiday pay?
2. When a person is paid out for a holiday, is it based on an 8-hour day or the individuals daily average?
3. When a person is paid out for a holiday, is it because they were scheduled for work that day?

**Commented [M3]:** Part timers are not currently afforded any time off, see page 6 under employee statuses item 8. Maybe it should read do we want to pay part timers holiday pay (it wasn't clear to me what you were asking)

"If available, a full day of unused time may be used for this purpose"

4. What unused time is this exert referring to?

# Holiday Pay Exerts

## ***Great Barrington:***

### **HOLIDAYS**

*Employees covered by a collective bargaining agreement (CBA) should also refer to their respective CBA. In the event of a conflict between this policy and the specific terms of a CBA, the terms of the CBA will govern.*

The following days shall be paid holidays for employees:

*New Year's Day*

*Martin Luther King Day*

*President's Day*

*Patriots' Day*

*Memorial Day*

*Juneteenth (New in 2021)*

*Independence Day*

*Labor Day*

*Indigenous People's Day*

*Veterans' Day*

*Thanksgiving Day*

*Christmas Day*

When a holiday occurs on the regularly scheduled workday of a full-time employee, the employee shall receive their regular day's pay for such holiday.

An employee required to work on a holiday shall receive a compensatory day off with pay within the calendar year following the holiday to be taken at a time approved by the employee's Department Head.

A part-time employee shall receive pay for a holiday or earn compensatory time in the same proportion their part-time service bears to a full-time schedule. Part-time employees will be paid only for scheduled time lost due to a holiday closure.

An employee scheduled to work on a holiday who fails to report for work shall be considered absent without pay. Employees who cannot work as scheduled due to illness are required to notify their supervisors and/or provide medical documentation of such illness in accordance with any sick leave

policies in effect at the time. Employees who are scheduled to work on a holiday who do not work as scheduled shall not receive holiday pay or a compensatory day off.

***Sheffield:***

Holidays and Holiday Pay – All Town offices, with the exception of the Transfer Station, Highway Department and Police Department, will be closed on the following holidays:

New Years Day

Martin Luther King Day

Presidents Day

Patriots Day

Memorial Day

Independence Day

Labor Day

Columbus Day

Veterans Day

Thanksgiving Day

Day after Thanksgiving Day

Christmas Eve

Christmas Day

Juneteenth

The Transfer Station will be open for business on all holidays that fall on regularly scheduled days of operation, with the exception of Christmas and New Years Day.

All Benefited Exempt Employees will receive regular compensation for each of the above-listed holidays.

All Full-Time, Non-Exempt Employees and Benefited Part-Time, Non-Exempt Employees who work a scheduled Monday through Friday workweek will receive compensation for these holidays.

All Full-Time, Non-Exempt Employees and Benefited Part-Time, Non-Exempt Employees who work a scheduled workweek which does not include Mondays, will not receive compensation for those holidays which occur or are recognized on Mondays (i.e. Martin Luther King Day, Patriots Day), but will receive compensation for those holidays, which, due to their normal rotation, are designated by the Town to fall on a Monday, such as Christmas Eve, Christmas, and New Years Day.

Employees covered by a ratified collective bargaining agreement are subject to the holiday and holiday pay provisions contained therein. Non-Benefited Employees and Seasonal Employees are not entitled to holiday benefits or holiday pay when their department is closed.

An employee who is paid on an hourly basis and required to work on a holiday shall receive compensation equal to one and one half (1½) times her/his regular rate of pay for all hours worked, with the prior approval of the Department Head or the Town Administrator in his/her absence.

## ***New Marlborough***

### 1. Holidays

Employees required to work on a holiday shall be paid at double the regular pay rate for any and all hours worked on that day and also shall be eligible to reschedule their holiday time off with approval of the department supervisor. This is the schedule of paid holidays for the Town:

New Year's Eve (1/2day)

New Year's Day

Martin Luther King's Birthday

Presidents Day

Patriots Day

Memorial Day

Independence Day

Labor Day

Columbus Day

Veterans Day

Thanksgiving Day

Day after Thanksgiving

Christmas Eve (1/2 day)

Christmas Day

Full Time employees shall be eligible for holiday leave upon hire.

### ***My Recommendation***

#### **Holiday Pay Policy**

The Town of Monterey recognizes the following as paid holidays each year:

*New Year's Day*

*Martin Luther King Day*

*President's Day*

*Patriots' Day*

*Memorial Day*

*Juneteenth (New in 2021)*

*Independence Day*

*Labor Day*

*Indigenous People's Day*

*Veterans' Day*

*Thanksgiving Day*

*Christmas Day*

Should a holiday fall on a weekend, the holiday will be observed on the workday closest to the holiday.

#### **Eligibility for Paid Holidays**

All regular full-time or part-time employees in good standing will receive holiday pay at their regular rate of pay, provided they meet the following conditions:

1. Work a full shift on the employee's last scheduled work shift prior to the paid holiday.
2. Work a full shift on the employee's first scheduled work shift following the holiday.
3. Should the employee be unable to work either of these two days because of illness, proof of illness will be required to qualify for the paid holiday.

Employees will not be entitled to holiday pay in the following circumstances:

1. The employee has not successfully completed the 90-day introductory period.
2. The employee is on an unpaid leave or disciplinary leave of absence when the holiday occurs.

Employees covered by collective bargaining agreements will receive paid time off for holidays in accordance with that agreement.

### **Procedures**

If a company holiday occurs on an eligible employee's vacation day, it will be recorded as vacation or holiday pay.

Should a Town-recognized paid holiday fall on a Saturday, the holiday will usually be observed on the preceding Friday. If the holiday falls on a Sunday, the following Monday will usually be observed as the holiday.

Holiday pay is not to be considered hours worked in the computation of overtime.



## Chief of Police

### **Job Summary:**

This position oversees, directs, and administers the activities and operations of a municipal police department. The Chief of Police performs administrative and supervisory work in directing the operations of the Police Department, in the protection of life and property and in the prevention and suppression of crime in accordance with M.G.L. Chapter 41, Section 97.

### ***Supervisory Responsibilities:***

- Oversees the ongoing operations of all Police Department employees.
- Manages and directs the Police Department toward its primary goals and objectives.
- Collaboratively oversees employment decisions with the Town Select Board.
- Promotes communication and cooperation among the Police department and other departments to create a spirit of unity in the organization.

**Hours/Compensation:** This position is a full time, FSLA, exempt position. Due to the nature of the job additional hours beyond the normal workweek may be necessary.

### ***Direct Report:***

This position reports directly to the Town Administrator acting under the direction of the Select Board.

### ***Duties/Responsibilities:***

- Oversees the activities of all employees (civilian and non-civilian) engaged in departmental operations.
- Sets general policy and administrative standards for the department.
- Prepares and submits an annual budget and is responsible for the proper allocation of department funds and other resources.
- Circulates rules and regulations of the department in order to provide for improved departmental efficiency and effectiveness.
- Ensures the implementation and enforcement of all departmental rules and regulations.
- Is responsible for all matters of fiscal management, policy, operations and discipline.
- Represents the Police Department and maintains a positive working relationship with other departments, elected officials, media, and outside agencies.
- Administers performance evaluations for all members of the department.
- Acts as hearing officer upon disciplinary charges brought against any department employees.
- Respond and resolve difficult and sensitive citizen inquiries and complaints.
- Serves as a resource for law enforcement personnel and coordinates information, resources and work teams necessary to support a positive, productive, and harmonious work environment.
- Is on call at all times for police emergencies.

- Plans, supervises, trains and evaluates subordinates; assigns members of the force to shifts and establishes daily routines; supervises special police assignments; determines disciplinary action as required; interviews and recommends appointment or promotion of all applications for positions within the police department.
- Provides regular reports to the select board for the purpose of reporting various aspects of the police department's operations; participates in meetings, conferences and regional discussions for the purpose of information gathering and exchange.
- Prepares grants to apply for federal and state funding; administers grants.
- Has town-wide access to all types of confidential information regarding criminal investigations, personal information about citizens, as well as personnel records, law suits, and other department-related confidential information.
- Performs related duties as needed.

***Required Skills/Abilities:***

- Thorough knowledge of the laws, rules, regulations and procedures governing the operations and activities of a municipal police department.
- Thorough knowledge of the principles and practices of law enforcement organization, administration and budgeting; ability to communicate effectively, both orally and in writing.
- The ability to plan, direct and evaluate employee performance through subordinate supervisors.
- The ability to identify critical operating problems and formulate realistic solutions.
- The ability to make appropriate, effective and timely decisions based on available information.
- The ability to act with integrity, stability, intelligence, sound and mature judgment, tact, initiative, and resourcefulness.
- physical condition commensurate with the duties of the position.
- Training and qualification in the use of firearms and radar equipment.
- Possession of a Massachusetts Class D motor vehicle operator's license.
- Certified as a police officer by the Ma Municipal Police Training Council

***Education and Experience:***

Either (a) ten years of experience in law enforcement, including two years at a rank higher than that of Police Officer; or (b) graduation from a recognized college or university with a Bachelor's Degree in police science, management, business, public or government administration and six years of experience as specified above, including the two years of specialized experience; or (c) a satisfactory equivalent combination of the foregoing training and experience.

***Physical Requirements:***

Administrative work is performed in an office setting subject to continuous interruptions. There is unusual stress in performing the role of the Chief of Police in a rapidly changing social environment. Must be able to work under stress from demanding deadlines and changing priorities and conditions.

Ability to work in poor weather conditions, including heat, cold, rain or snow. There is exposure to life-threatening situations in police investigations for which precautionary measures must be taken.

Operates motor vehicles, all police equipment, computer, Microsoft Office software, IMC software and other standard office equipment; required to wear appropriate uniform and equipment.

Must have the ability to attend Select Board meetings as requested.

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

TERRY WALKER )  
Plaintiff )  
V. )  
TOWN OF MONTEREY, MELISSA NOE, in )  
her Official and Individual capacity, DONALD )  
COBURN, in his Official and Individual capacity )  
and STEVEN WEISZ in his Official and )  
Individual capacity )  
Defendants )

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COMPLAINT

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INTRODUCTION

The Plaintiff, Terry Walker (“Ms. Walker”), brings this action seeking redress for substantial violations of her rights pursuant to the Federal and Massachusetts Civil Rights acts as well as under the Massachusetts Whistleblower Act, M.G.L. c. 149, § 185, and violations of the common law. The Plaintiff brings these actions against the named Defendants for retaliating against her for exercising her rights of free speech as a citizen and by reporting, objecting to, and filing complaints about what she reasonably believed to be ongoing violations of law in the Town of Monterey and the Monterey Board of Selectman, specifically by Defendant Melissa Noe.

JURISDICTION

The Plaintiff asserts federal jurisdiction under 42 U.S.C. § 1983, and pendent jurisdiction of his state law claims under 28 U.S.C. § 1367.

## PARTIES

1. The Plaintiff, Terry Walker, is an individual residing in the Town of Tolland, Hampden County, Commonwealth of Massachusetts.
2. Defendant Town of Monterey, is a municipality duly incorporated under the laws of the Commonwealth of Massachusetts
3. The Defendant, Melissa Noe, at all times relevant to this Complaint, served as Town Administrator for Defendant Town of Monterey, with a place of business located in Berkshire County, Commonwealth of Massachusetts.
4. The Defendant, Steven Weisz, at all times relevant to this Complaint, served as a member of the Monterey Select Board, with a place of business located in Berkshire County, Commonwealth of Massachusetts.
5. The Defendant, Donald Coburn, at all times relevant to this Complaint, served as a member of the Monterey Select Board, with a place of business located in Berkshire County, Commonwealth of Massachusetts.

## FACTS

6. Plaintiff, Terry Walker (Hereinafter "Plaintiff" or "Ms. Walker"), has been employed as Town Clerk for the Town of Monterey ("the Town"), for approximately six (6) years.
7. Plaintiff is and has always been a dedicated, energetic and hard-working employee. She has no prior disciplinary history and has at all times performed her duties in an appropriate manner.
8. Ms. Walker is an excellent public employee who has served the interests of the Town of Monterey diligently and honestly.
9. Despite her best efforts, Ms. Walker has been repeatedly retaliated against for her objections to and refusals to engage in conduct, which she reasonably believed to be illegal, a threat to public safety and/or in violation of the Massachusetts State Ethics laws as well as Town's Departmental Rules and Regulations.
10. Ms. Walker's initial complaints and objections include, but are not limited to, allegations of voter fraud by Defendant Melissa Noe, who insisted that voter ballots be destroyed and/or not counted in a local election.
11. Additionally, the Plaintiff refused to participate when Ms. Noe altered, amended or manipulated voter documents on multiple occasions constituting a violation of MGL. c. 56, section 11, for defacement of a ballot petition.

12. Specifically, Ms. Walker accused Defendant Noe of tampering with names on the citizens' petition. This complaint was forward to the Berkshire District Attorney's Office, after a state election official said the allegation could result in criminal charges and recommended that the claim be investigated.
13. In May of 2021, the Plaintiff resigned from her work as the Town of Monterey's lead Grant Writer. The Plaintiff had held that position for the previous five years. The Plaintiff's resignation from the position of Grant Writer was based upon the repeated harassment and unwarranted criticism by Defendant Melissa Noe.
14. In June of 2021, shortly after her resignation, Ms. Walker's complained to the Town and the Select Board regarding allegations of ongoing intimidation, retaliation and harassment by Defendant Melissa Noe.
15. On July 21, 2021, following a Select Board meeting, Defendant Noe made complaints to Select Board member Justin Makuc regarding the Plaintiff's physical appearance and that Plaintiff should not be allowed to work when no one was in Town Hall.
16. When the Plaintiff responded, Defendant Noe angrily threatened and berated Plaintiff further, causing her to fear for her personal safety.
17. Ms. Walker, filed a police report with Monterey Police Sgt. Brian Fahey and contacted the Massachusetts State Police regarding this incident.
18. The Town of Monterey and its Select Board took little action to curtail or discipline Defendant Noe, and her harassment of the Plaintiff increased, with friends of Defendant Noe joining in the attempts to intimidate the Plaintiff.
19. These Select Board's lack of action was coercive and designed to silence the Plaintiff's objections and complaints about Defendant Noe's conduct and her retaliation of the plaintiff.
20. The Plaintiff's complaints eventually resulted in the Town's decision to hire an independent law firm to investigate these allegations.
21. On or about March 17, 2022, Corinne Hood Greene, of the law firm of Greene & Hafer was hired by the Town of Monterey to investigate complaints made by Ms. Walker. The firm specialized in issues of employment law.
22. The investigation conducted by Attorney Greene, focused on whether Defendant Noe engaged in a misuse of power through "a pattern of conduct" that was retaliatory and manipulative.
23. The subsequent report of the investigation conducted by Attorney Greene stated, "Ms. Walker made a timely report concerning an incident that occurred July 21, 2021, following a Select Board ("SB") meeting."

24. According to the Greene and Hafer report:

*“SB member Justin Makuc witnessed Noe and Highway Superintendent Shawn Tryon angrily confront Walker. Accounts of the altercation do not vary significantly, as set forth in the reports of both Chief Backhaus and Sergeant Fahey. The only dispute seems to concern the intensity of the argument and whether Walker could have reasonably feared for her safety. In that regard, we note that Walker was aware of a prior incident involving Tryon allegedly assaulting another employee. Therefore, whether this prior incident occurred as alleged or even if it did not occur at all, it informed Walker’s reaction. We credit Makuc’s recollection of the events, given his status as the newest member of the SB at the time of the incident and his reaction. Acting in the moment, he judged the situation of such intensity that he needed to immediately check in on Walker and escort her to her vehicle. From there, however, Walker re-entered the building and sought the assistance of the Police Sargent immediately following the incident. He did not take her report at that time, but later described her as upset. Both the Chief and Sergeant made later reports of the incident, despite concluding that it was not a police matter. The Chief admits that he sought the advice of Town Counsel, who purportedly agreed with him that it was a personnel matter. The Chief’s categorization of this incident is curious in that he equates this incident with an earlier dispute between Noe and former SB member John Coburn, yet he contends that that incident should have been investigated. The conduct of each of the employees involved in this incident may be considered violative of several sections of the Town’s Employee Manual cited above. At least one employee alleges an assault occurred, but the police declined to take action. As set forth at the conclusion of this report, the failure of the Town to promptly make any investigation as to the policy violations or to take any remedial personnel actions has likely contributed to the Town’s inability to move on from this incident.” (Exhibit 1)*

25. Attorney Greene also investigated and validated another complaint made by Ms. Walker against Defendant Noe for making false statements about the performance of the Plaintiff’s work during a September 1, 2021, Select Board meeting.

26. As Town Administrator, Defendant Noe had the ability to place the purported issue of Ms. Walker’s work performance into a public forum. This was done by Defendant Noe in an effort to publicly discredit and disparage Ms. Walker in the eyes of the public.

27. Attorney Green’s report concluded that the *“...complaints are only actionable to the extent that they shed light on the underlying issue of retaliation by Noe. Noe’s control over the agenda provides an avenue for her to raise alleged performance issues in a public forum in an attempt to disparage, whereas such issues should be addressed in the workplace between a supervisor and employee.”*

28. After making the above complaints, Ms. Walker continued to be subjected to an overt pattern of retaliation and hostile treatment by Defendant Noe, who seemed emboldened by the lack of action taken by the Select Board.

29. Defendant Noe's attempts to silence and discredit the Plaintiff extended beyond her interactions with the Plaintiff. Select Board member Justin Makuc also filed a complaint with the Select Board regarding inappropriate conduct on the part of Defendant Noe.
30. In his complaint Mr. Makuc stated that on September 19, 2021, he received an email from Defendant Noe in which Noe suggested that it was in the Town's best interests for Mr. Makuc to meet with Noe regarding negative information Defendant Noe claimed to possess about Ms. Walker.
31. Defendant Noe informed Mr. Makuc, that in Noe's opinion, if the Select Board agreed to an investigation of the Plaintiff's complaints, it was likely to expose the Town of Monterey to additional claims by Ms. Walker.
32. Defendant Noe continued to urge Mr. Makuc as well as the Select Board to dismiss the Plaintiff's complaints concerning the July 21, 2021 (see paragraph 14 above) incident involving the threats made by Defendant Noe and Highway Superintendent Tryon to the Plaintiff.
33. With regard to this particular issue, the Greene and Hafer investigative report also concluded:

*"Noe has also personally urged Walker to drop her claims, both individually and in concert with Weisz. Taken alone, the fact that Noe would reach out to a single member of the SB in an attempt to dissuade him from pursuing an investigation of claims made by any Town employee is troubling. We consider this complaint in tandem with other attempts to intimidate Walker or threaten her reputation and livelihood (taken by Noe alone or in tandem with others) and to retaliate against her for pursuing claims. As set forth above (with regard to the Makuc email) and below (in the context of other complaints), we find that Noe has undertaken several actions intended to retaliate, intimidate or otherwise coerce Walker. Moreover, based on the findings concerning our investigations of Sylbert and Banducci's complaints, we find there is a pattern of behavior whereby Noe has taken action against employees or individuals whom, in her estimation, have undermined her authority or otherwise challenged her." (Exhibit 1)*

34. On August 22, 2021, the Plaintiff filed a complaint against Highway Superintendent Tryon for making an obscene gesture to the Plaintiff. Tryon is a personal friend and ally of Defendant Noe and had previously threatened the Plaintiff during the confrontation with Defendant Noe on July 21, 2021.
35. After the Plaintiff had continued to object and complaint about Defendant Noe, both Noe and Select Board member Donald Coburn threatened they would 'dig up dirt' on Plaintiff dating back forty (40) years if she continued to pursue her complaints against them.
36. Attorney Greene did not specifically investigate the obscene gesture complaint because it was considered a dispute between two coworkers, neither with authority over the other.



37. However, the Greene and Hafer report concluded that despite the legitimacy of the Plaintiff's accusations of harassment and retaliation by Tryon and Noe, the Town took no remedial action or steps to prevent future abuse.

*"Nonetheless, the Town as their employer had previously been notified of a negative interaction between these same two employees the prior month. Given the other findings, detailed herein (concerning harassment against Walker in the wake of her July complaint) it is reasonable to conclude that Walker is experiencing harassment in her workplace of which the Town is aware and therefore could be liable if remedial action is not taken. Our investigation revealed no efforts being undertaken by the Town to prevent harassment or retaliation." (Exhibit 1)*

38. In an effort to document her mistreatment Ms. Walker filed a complaint with the Select Board against Defendant Noe for another incident that had occurred at another Select Board meeting on September 22, 2021. It is clear from the statements from eyewitnesses to this event that Ms. Noe's conduct was sufficiently aggressive to place the Plaintiff in fear for her personal safety.

39. The Greene and Hafer report investigated the complaint and concluded the following:

*"Multiple witnesses support a finding that a disagreement occurred during the September 22, 2021, SB meeting, which then carried over into the hallways of Town Hall. Like the July incident, there is no meaningful dispute that the event occurred in generally the manner alleged. Noe admits that she yelled at Walker. Gary Shaw, former Assistant Town Clerk and assistant to Walker, witnessed the conduct at the meeting and after, describing Noe's behavior as belligerent toward both Walker and the SB members. We credit his description, given Noe's admission. The only disagreement about these events is whether it escalated such that Noe's conduct could be considered threats of violence. Walker and Shaw claim Noe's behavior caused Walker to reasonably fear for her safety, on one hand, and Weisz and Noe contend that Walker could not have reasonably been in fear of violence. We find that if Weisz and Shaw were both compelled to intervene, Walker's fear was reasonable.*

40. During the above described interaction, Gary Shaw attempted to intervene. Upon seeing Mr. Shaw's effort to deescalate the situation, Defendant Noe stated "Are you here to protect Terry (the Plaintiff) so I won't beat her up?"
41. As egregious as Defendant Noe's threat of physical violence toward the Plaintiff was, the Town, through its Select Board took no corrective, let alone any disciplinary action against Defendant Noe.
42. With regard to this incident, the Greene and Hafer report concluded:

*"As set forth at the conclusion of this report, we cannot offer an opinion as to whether Noe's behavior, which we find to have reasonably put Walker in fear, amounts to*

*a terminable offense under her Employment Agreement. However, acts of violence is noted in the employee manual as one of the egregious behaviors that may warrant immediate dismissal. Where this was the second such incident admitted by Noe, we find disciplinary action was warranted, but no such disciplinary procedure exists under Noe's contract and the SB failed to follow the Disciplinary Action clause set forth in the Employee manual. By the time this incident occurred, the SB was on notice of Walker's first complaint in which she made specific allegations, including fear of physical violence. We find that for Weisz to allow this second interaction to escalate as far as it did without more intervention or immediate disciplinary action is potentially problematic for the Town. Even were his inaction excusable, Weisz then orchestrated and participated in efforts to get Walker to retract her Complaint, as set forth below."*

43. As a result of the Plaintiff's complaints to these events and others, Ms. Walker has been subjected to ongoing and multiple adverse employment actions including, but not limited to, subjecting her to an overtly aggressive and hostile work environment, including, but not limited to verbal abuse and retaliation.
44. After raising her complaints to multiple individuals, including members of the Select Board and to investigators, the Plaintiff continued to be threatened, coerced and intimidated by other supporters of Defendant Noe.
45. These threats and acts of coercion were done to force and compel the Plaintiff to withdraw her complaints against Defendant Noe, including Select Board member Donald Coburn, his wife Ellen Coburn and Select Board Chairman Steven Weisz.
46. Defendant Coburn also contacted the Town of Peru, where Plaintiff was employed as the Administrative Assistant to the Board of Selectmen. Defendant Coburn did so in an attempt to disparage Plaintiff to her other employer and coerce the Plaintiff from continuing to complain about her ongoing harassment by Defendant Noe.
47. In an email dated November 24, 2021 at 5:40 AM, Select Board member Defendant Coburn sent the following to the Plaintiff, with the subject line, "**Perhaps it's time to apologize and pray.**"

"Terry,

Remember when I alerted you to the risks of precipitating an investigation? Well, now you are most likely about to face them.

However, before acting to bring your work history to the public's attention, I thought I'd give you one last chance to publicly apologize for all the complaints you've filed against Melissa, Shawn, Steve, Ellen and me, and to formally withdraw them permanently. Perhaps then the Select Board will allow you to continue to work until your planned retirement.

As you well know, and now I know, you've been playing the victimhood game in town after town, leaving a trail of anger, to put it mildly. I have your complaint filed with the Mass. Commission Against Discrimination and your signed withdrawal of it. You seem to want to forget you worked in CHESTER, but what's done cannot be undone.

In town after town, the writings, including your own letters of resignation, and newspapers, show you making the same complaints, using the same phrases, and then quitting or being "fired."

The full details of the PATTERNS of your behavior will now be made public. And any investigator hired by Monterey will be able to review your present claims in the light and context of your other claims in other towns.

I suggest that if you think a fully informed review of your work history will turn out well for you, you are seriously mistaken. If you apologize and permanently withdraw your complaints BEFORE the end of TODAY'S SELECT BOARD MEETING, the information I have will be kept private. Otherwise, it will be used to inform all of the truth." (Exhibit 1)

48. Ms. Walker filed a complaint against Kevin Fitzpatrick dated October 4, 2021. In said complaint, Ms. Walker alleged she was subjected to sexually suggestive messages and unwanted touching by Kevin Fitzpatrick, who was then a co-worker.
49. The investigation by Attorney Greene concluded that "*... it does not appear the Town harassment policy was followed in this instance, given the Chief of Police contends that his first notice of the allegation came from a State Police Detective, not internally, and given that he took no action. The policy demands a prompt investigation, including a hearing by the member of the Select Board, one female and one male employee. A prompt and appropriate response may have been managed if the Town had better reporting policies or had even followed existing policies. It is unclear whether the Town offered the hearing mandated and, to the contrary, we heard evidence that SB member Weisz suggested to Walker that she meet privately with him and Fitzpatrick (her alleged harasser) so that the latter could apologize. Moreover, we found no evidence that any effort has been made to further the policy's promise that "No employee shall be retaliated or discriminated against in any way for making a complaint of sexual harassment for cooperating in the investigation of such a complaint."*
50. On October 16, 2021, Select Board member Makuc made another complaint to the Select Board that Defendant Noe had engaged in further intimidation and retaliation against the Plaintiff.
51. The Greene and Hafer report investigated the complaint by SB member Makuc and concluded the following:

*"We find that, by her own admission, Noe confronted Walker about her complaints in a hostile manner, as described above, during an incident on September 22, 2021. Noe also*

*directed sweeping public record requests to Walker as the Town's records officer, which concerned Walker herself. The requests were made subsequent to Walker initiating complaints against Noe. We find the intent of each of these actions was to discourage, intimidate or otherwise dissuade Walker from pursuing her claims. Our investigation also revealed that similar requests for information about Walker's employment history have been made by other individuals (who have aligned themselves with Noe) and that Noe, herself, shared with us a public records request she made, personally, to the Massachusetts Commission Against Discrimination asking for records related to Walker. The documentation she obtained was shared with us by her (and by others) in an effort to discredit Walker. This same information was the subject of threats (made by a former SB member) directly to Walker demanding that she stop pursuing her complaints or have this information (which he intended to be damaging to her reputation) exposed. See Note 6, above. The actions she has taken, highlighted in this Makuc complaint, may be considered retaliatory if they amount to an adverse employment action against Walker. The most recent documents shared by Walker appear to show that her budget is being reviewed and that the SB is publicly considering what the impact of some of the information from her past should have on her current employment. Any adverse employment action which can be directly related to her complaints may expose the Town to liability." (Exhibit 1)*

52. Ms. Walker also filed a complaint against Select Board member Defendant Weisz dated October 16, 2021 claiming that she was coerced into apologizing for her role in the June incident and that Select Board member Weisz has made several efforts to get her to withdraw her complaints against Noe, Tryon and Fitzpatrick.

53. The Greene and Hafer investigation revealed:

*"Weisz admits to attempting to negotiate a sort of truce between Walker, Noe and Tryon in October, as well as evidence that Walker apologized for her role in the incident. A corresponding apology from Noe was reportedly conditioned on the retraction of Walker's complaint, by letter to be authored with Weisz."*

*These actions were taken by Weisz before any independent investigation of the underlying dispute (which most witnesses identify as the MassWorks grant) was undertaken. Further, these requests for retraction came from two individuals in positions of authority over Walker. The Chief of Police confirmed that he was also asked by Weisz to intervene, but he did not (because he felt Tryon and Noe did not seem to him to be interested in resolution).*

*Like many of Noe's actions taken in response to Walker's complaints highlighted herein, the actions of Weisz may be considered the actions of the Town, as Walker's employer. While we credit Weisz's claim that he acted with the goal of achieving some level of harmony in Town hall, he failed to acknowledge that he was doing so while holding a position of supervisor to Walker. He also failed to acknowledge that his actions, attempting to influence Walker, were undertaken while she was also being barraged with*

*additional coercive efforts (by Noe, by former SB members and others) that are well documented and must have been known to him.” (Exhibit 1)*

54. The Green and Hafer report independently concluded that Noe and others were engaging in a misuse of power through “a pattern of conduct” that was retaliatory and manipulative and that there was “a failure of leadership” by Select Board members and a breakdown between the board and Town Administrator Melissa Noe.
55. Despite the Greene & Hafer reports’ finding that Ms. Noe has engaged in a misuse of power through “a pattern of conduct” that was retaliatory and manipulative toward Ms. Walker, the Select Board refused to conduct or take any meaningful corrective action against the Town employees and public officials.
56. Ms. Noe and others, including Select Board members Stephen Weisz and former board member Donald Coburn, have repeatedly attempted to coerce Ms. Walker to withdraw her harassment complaint and Whistleblower claims made regarding Ms. Noe.
57. In retaliation against the Plaintiff, Ms. Noe filed three complaints, wrongfully accusing Ms. Walker of making false statements against her.
58. Ms. Noe continued her harassment of the Plaintiff by conducting her own personal unauthorized investigation of Ms. Walker's past employment history which was clearly done as a means to attempt to silence and coerce Ms. Walker from continuing her objections to Ms. Noe’s unethical and illegal behavior.
59. In the report filed by Greene and Hafer, they concluded that investigating Ms. Walker's past was an attempt by Ms. Noe and others, including former board member Donald Coburn, to discredit Walker.
60. It is patently clear that the retaliation and hostile treatment inflicted on Ms. Walker was done as a direct consequence for her ongoing complaints about and refusals to be a part of what she reasonably believed to be, at a minimum, unethical and discriminatory conduct in violation of the Town of Monterey’s Departmental rules and regulations.
61. The Town continues to refuse to take any meaningful remedial action while Defendant Noe, and others, who repeatedly and systematically engaged in a pattern of harassment and retaliation designed to make Ms. Walker’s employment situation untenable.
62. The sole remedial accommodation provided to Ms. Walker, was to amend her work schedule. This “accommodation” was subsequently rescinded after Ms. Walker placed the Town of Monterey on formal notice of her intention to pursue civil litigation.
63. On June 1, 2022, the Monterey Board of Selectmen, Susan Cooper and Chairman Justin Makuc voted and approved an amended working schedule, implemented for Ms. Walker’s safety so as to not be forced to interact with Ms. Noe who, the Greene & Hafer

report's concluded, had been engaging in a misuse of power through "a pattern of conduct" that was retaliatory and manipulative toward Ms. Walker.

64. The agreed upon schedule for Ms. Walker's working hours was set for Thursday 4:30-8:30 p.m, Friday 12-8 p.m., with the balance of the 19.75 hours worked left as 'discretionary hours.' 7.75 hours would be worked Saturdays and Sundays.
65. The voted on "accommodation" was designed so that Ms. Walker would be able to perform her duties when Ms. Noe was not in Town Hall.
66. Subsequently, after the Town and its employees learned of Ms. Walker's intention to pursue civil litigation, the Town removed the previous accommodations put in place to provide a safe and harassment free environment for Ms. Walker.
67. The temporal proximity of the Town's adverse actions and retaliation following Ms. Walker's notice of intent to pursue litigation is obvious.
68. Despite the clear recommendation and conclusions reached by the investigation conducted by Greene and Hafer, the Town's recent actions, as well as those taken by Town Administrator Melissa Noe, are clearly designed to further retaliate and harass Ms. Walker for her reporting of unethical and illegal conduct and her intention to litigate.
69. Additional retaliation including, but not limited to, the Defendants' taking away Plaintiff's town issued credit cards, removing her computer and/or printer access, harassing behavior, disparaging emails and further attempts to coerce Plaintiff to violate various Massachusetts General Laws have all transpired after placing the town on notice of her intention to pursue claims under 151B and the Massachusetts Whistleblower Act.

COUNT ONE - WHISTLEBLOWER (M.G.L. c. 149, § 185)  
v. TOWN OF MONTEREY

70. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.
71. The Plaintiff, through various means and measures, has reported, objected to, filed written complaints and oral reports about ongoing violations of law in the Town of Monterey and by the Select Board including, but not limited to, violations by Defendants of Town bylaws, Ethical violations and voter protection laws including, MGL. c. 56, section 11.
72. The Defendants retaliated against Plaintiff for disclosing, objecting to and/or refusing to participate in an activity, policy or practice which the Plaintiff reasonably believed was in violation of a law and/or a rule or regulation promulgated by law, in violation of the Massachusetts Whistleblower statute, G.L.c.149 §185.
73. Plaintiff has been retaliated against for reporting and objecting to such actions and as a result of raising these issues was subsequently subjected to disparate treatment, a hostile

work environment, retaliatory acts, and attempts to interfere with her rights protected under both the U.S. Constitution and the Massachusetts Declaration of Rights.

74. As a consequence of the Defendants' actions, Plaintiff suffered and continues to suffer damages, including, but not limited to: loss of income, loss of employment benefits, other financial losses, loss of professional opportunities, loss of personal and professional reputation, loss of community standing, and emotional and mental distress.

WHEREFORE, Plaintiff demands judgment against the Defendant on Count One, plus interest and costs of this action, and reasonable attorneys' fees as provided under G.L.c.149, Section 185.

COUNT TWO – MASSACHUSETTS CIVIL RIGHTS (M.G.L. ch. 12, §§ 11H, I)  
v. Defendants Town of Monterey, Monterey Select Board and Melissa Noe, Donald Coburn and Steven Weisz in their official and individual capacities

75. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.
76. Defendants, in their official and individual capacities have attempted to interfere with, and did interfere with Plaintiff's exercise and enjoyment of rights secured by the constitution and laws of the United States, and the constitution and laws of the Commonwealth, by threats, intimidation and coercion, including her right to free speech and equal protection of the laws and to seek redress from government misconduct without retaliation.

WHEREFORE, Plaintiff demands judgment against the Defendant on this Count plus interest and costs of this action, and reasonable attorneys' fees as provided under M.G.L. c. 12, Section 11I.

COUNT THREE – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS  
v. Melissa Noe, Donald Coburn and Steven Weisz in their official and individual capacities

77. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.
78. The conduct of the Defendants toward the Plaintiff was extreme in degree and outrageous in character, resulting in the intentional and reckless infliction of emotional distress upon plaintiff.
79. Defendants intended to inflict emotional distress on Plaintiff or knew or should have known that emotional distress was a likely result of defendant's conduct.
80. Defendants conduct as alleged above was extreme and outrageous, beyond all possible bounds of decency and was utterly intolerable.

81. The outrageous actions of the Defendants was the cause of plaintiff's distress and the emotional distress sustained by the Plaintiff is of a nature that no reasonable person could be expected to endure.
82. As a result of the outrageous actions of Defendant Noe, Plaintiff was caused to suffer emotional injuries and damages.

COUNT ONE --VIOLATION OF CIVIL RIGHTS and RETALIATION  
42 U.S.C., §1983

v. Melissa Noe, Donald Coburn and Steven Weisz in their official and individual capacities

83. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.
84. Defendants, in their official and individual capacities, while acting under the color of law, attempted to interfere with, and interfered with, Plaintiffs exercise and enjoyment of rights secured by the constitution and laws of the United States, including, but not limited to, her right to free speech.
85. Plaintiff complained regarding instances of voter fraud by Defendant Melissa Noe, who insisted that voter ballots be destroyed and/or not counted in a local election.
86. Additionally, the Plaintiff refused to participate when Ms. Noe altered, amended or manipulated voter documents on multiple occasions constituting a violation of MGL. c. 56, section 11, for defacement of a ballot petition.
87. Plaintiff was speaking as a citizen on legitimate matters of inherent public concern (*i.e.*, official malfeasance and public safety), thus her speech was protected under the First Amendment to the United States Constitution.
88. Although the First Circuit has emphasized that "no one contextual factor is dispositive," it has set forth a list of non-exclusive factors to guide courts in their evaluation. Those factors include:  
  
    "...whether the employee was commissioned or paid to make the speech in question; the subject matter of the speech; *whether the speech was made up the chain of command*; whether the employee spoke at her place of employment; whether the speech gave objective observers the impression that the employee represented the employer when she spoke (lending it "official significance"); whether the employee's speech derived from special knowledge obtained during the course of her employment; and whether there is a so-called citizen analogue to the speech." *Decotiis v. Whittemore*, 635 F.3d 22, 32 (1st Cir. 2011)
89. Specifically, Ms. Walker accused Defendant Noe of tampering with names on the citizens' petition. Plaintiff went outside of her chain of command as Town Clerk to report her concerns to a separate public body. Her complaint was forward to the Berkshire



District Attorney's Office, after a state election official said the allegation could result in criminal charges and recommended that the claim be investigated.

90. The Plaintiff's (and the public's) interest in becoming aware of above-referenced illegal activity were a substantial or motivating factor in the adverse employment actions taken against her by Defendants and they would not have taken such adverse employment actions absent the protected conduct.
91. The Plaintiff has suffered significant damages, including loss of employment opportunities; lost wages, benefits and other economic damages; costs and attorney's fees required to remedy the legal wrongs done to her; damages to her personal and professional reputation; and emotional distress.
92. The Plaintiff is also entitled to punitive damages because the Defendants acted with evil motive or intent, recklessly or with callous indifference to Plaintiff's federally and state protected rights.

THE PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY ON ALL COUNTS.

Respectfully submitted,  
For Plaintiff,  
By his attorney,

/s/ Timothy M. Burke

Timothy M. Burke, BBO #065720  
117 Kendrick Street, Suite 300  
Needham, MA 02494-2300  
(781) 455-0707

Dated: 09/09/2022

CERTIFICATE OF SERVICE

I hereby certify that this document filed through ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing on this date. Email copies will be sent to those listed as non-participants on the ECF system.

Dated: 09/09/2022

/s/ Timothy M. Burke



Charlie Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

*Commonwealth of Massachusetts*  
**Department of Fish and Game**

251 Causeway Street, Suite 400  
Boston, Massachusetts 02114  
(617) 626-1500  
Fax (617) 626-1505



Kathleen A. Theoharides  
Secretary

Ronald S. Amidon  
Commissioner

Mary-Lee King  
Deputy Commissioner

August 30, 2022

Justin Makuc - Select Board Chair  
Monterey Town Hall  
P.O. Box 308 – 435 Main Road  
Monterey, MA 01245

Dear Select Board Members:

The Massachusetts Department of Fish and Game (DFG) is considering the purchase of a conservation restriction over land located in the Town of Monterey. This letter is intended to serve as written notice of the DFG’s interest in acquiring this restriction.








The property under consideration contains 269 (+/-) acres of wildlife habitat. Enclosed is a locus Map Track No. 2023-1-2 that depicts the property in which the DFG is interested. The current use of the property is predominantly open space in its natural condition. If acquired, DFG, working through its Divisions of Fisheries and Wildlife and with the landowner, will maintain the property as open space, protect and manage the wildlife resources, and provide public access for passive outdoor recreational opportunities including wildlife observation, hunting, fishing and trapping, in accordance with the final conservation restriction document.

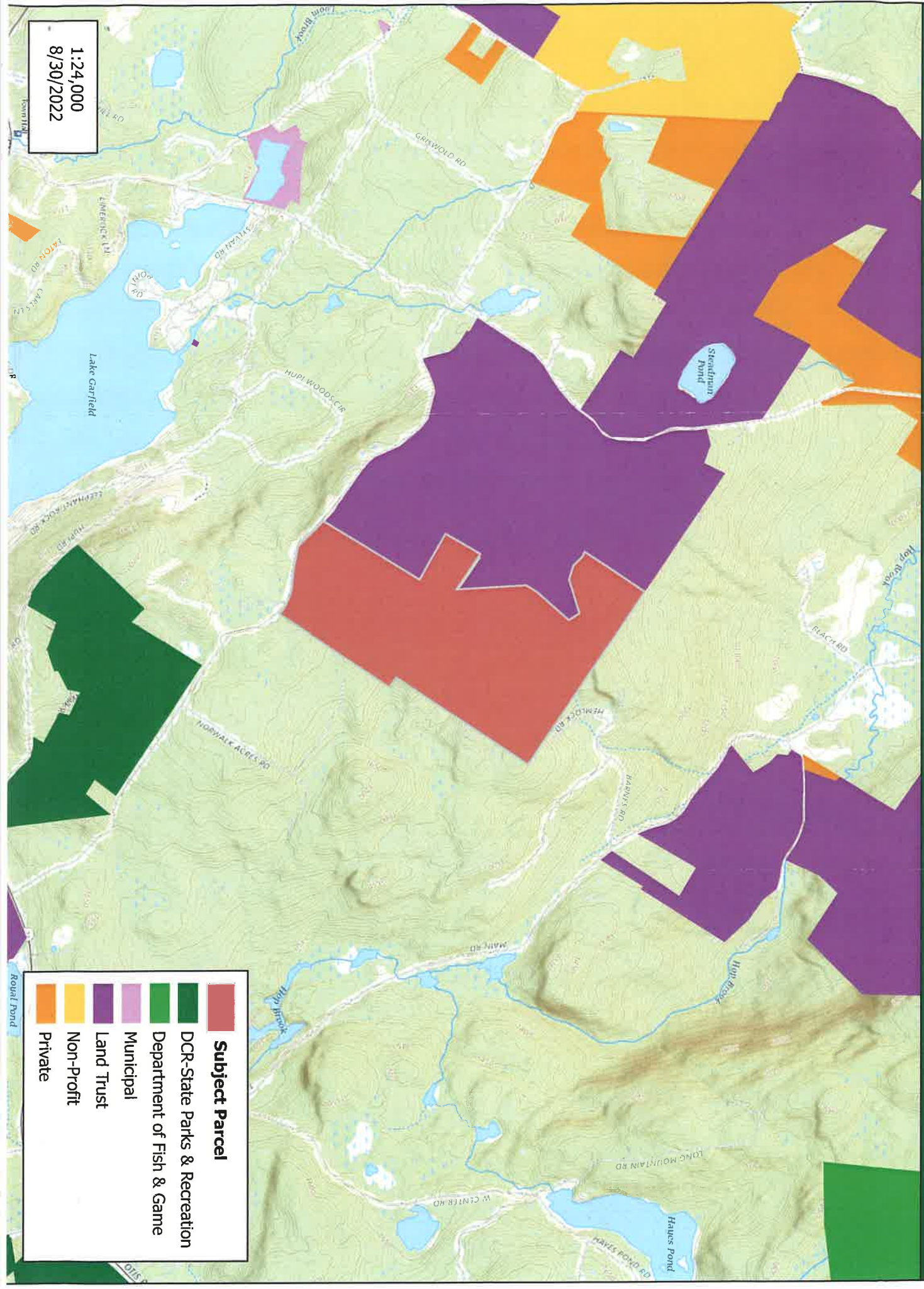
Sincerely,

  
Peter J. Mhanesi  
Land Acquisition Agent  
Massachusetts Division of Fisheries and Wildlife

Enclosures: Map Track No. 2023-1-2

1:24,000  
8/30/2022

	<b>Subject Parcel</b>
	DCR-State Parks & Recreation
	Department of Fish & Game
	Municipal
	Land Trust
	Non-Profit
	Private







**Commonwealth of Massachusetts  
Department of Fish and Game**

251 Causeway Street, Suite 400  
Boston, Massachusetts 02114  
(617) 626-1500  
Fax (617) 626-1505



Kathleen A. Theoharides  
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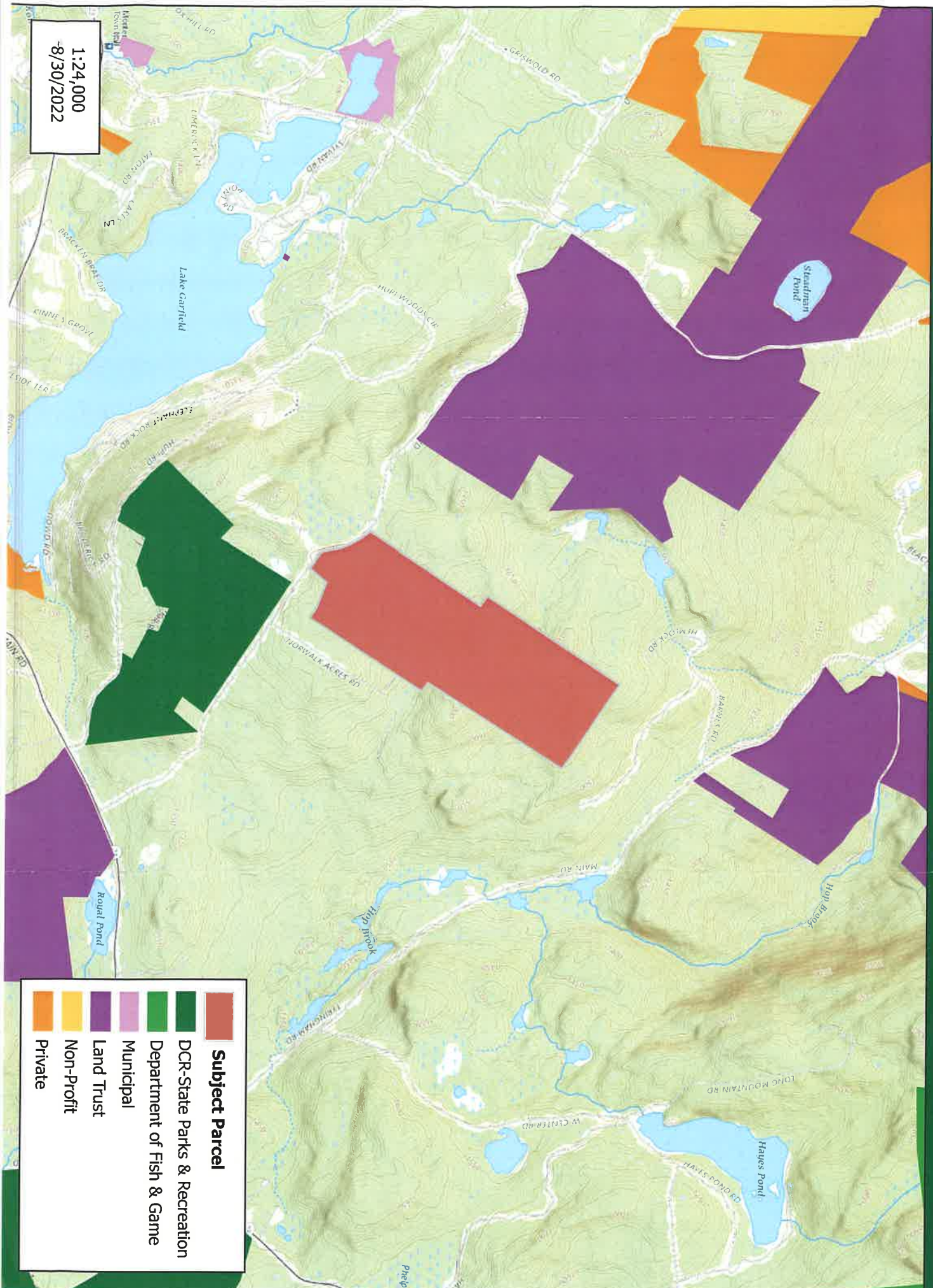
The Massachusetts Department of Fish and Game (DFG) is considering the purchase of a conservation restriction over land located in the Town of Monterey. This letter is intended to serve as written notice of the DFG’s interest in acquiring this restriction.

The property under consideration contains 193.68 (+/-) acres of wildlife habitat. Enclosed is a locus Map Track No. 2023-1-1 that depicts the property in which the DFG is interested. The current use of the property is predominantly open space in its natural condition. If acquired, DFG, working through its Divisions of Fisheries and Wildlife and with the landowner, will maintain the property as open space, protect and manage the wildlife resources, and provide public access for passive outdoor recreational opportunities including wildlife observation, hunting, fishing and trapping, in accordance with the final conservation restriction document.








Sincerely,

Peter J. Milanesi  
Land Acquisition Agent  
Massachusetts Division of Fisheries and Wildlife

Enclosures: Map Track No. 2023-1-1



1:24,000  
-8/30/2022

	<b>Subject Parcel</b>
	DCR-State Parks & Recreation
	Department of Fish & Game
	Municipal
	Land Trust
	Non-Profit
	Private



## TOWN OF MONTEREY

435 Main Rd. P.O. Box 308  
Monterey, MA 01245

The Honorable William Pignatelli  
Lenox Town Hall, 6 Walker St.  
PO Box 2228  
Lenox, MA 01240

Dear Representative Pignatelli,


A long-time homeowner in Monterey has recently brought to our attention the inflated price of parking at our local State Parks for non-residents. We understand that these fees are set by the Executive Office of Administration and Finance, and hope that you would be willing to intercede on our behalf with Commissioner Heffernan and urge the reinstatement of yearly access for out of state residents.

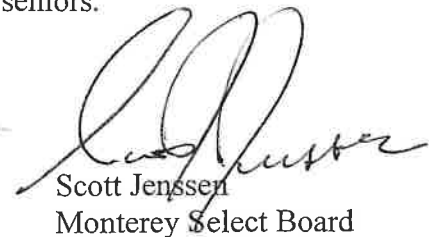
Massachusetts residents with Massachusetts driver's licenses can purchase a yearly parking pass for the very reasonable rate of \$60, and Massachusetts seniors can purchase a lifetime pass for only \$10. However, while the State Parks used to offer reduced rate yearly passes to those from out of state, they no longer do so, not even for seniors. A Monterey homeowner with out of state plates who lives just a few miles from Beartown State Park must pay \$30 each time they visit that park for the pleasure of walking through our beautiful forests.

Our town has many second home owners, as do many towns in the Berkshires: people who pay real estate taxes and often income tax to the state of Massachusetts. The State Parks are a magnificent asset, and one that should be accessible to those who are part of Massachusetts. Undoubtedly the Executive Office of Administration and Finance set these fees for a purpose, perhaps to reduce the flow of out of state residents during COVID or to raise additional monies for the State Parks. And at parks with heavy traffic, for example beach side parks on the Cape, we can certainly understand that the higher fees may be appropriate for a variety of reasons. But we ask that the Office of Administration and Finance reconsider the parking fee structure for State Parks and reinstate the availability of yearly passes for out of state residents, at the very least for those with a verifiable home in Massachusetts and for seniors.

Respectfully,

  
Justin Makuc  
Chair Monterey Select Board

  
Susan Cooper  
Monterey Select Board

  
Scott Jenssen  
Monterey Select Board

Phone: 413.528.1443 x114 Fax: 413.528.9452  
[admin@montereyma.gov](mailto:admin@montereyma.gov)  
[www.montereyma.gov](http://www.montereyma.gov)

**Town of Monterey**  
**Proposal for use of American Rescue Plan Act (ARPA) funds – Form**

- Completed forms are due no later than Thursday October 13<sup>th</sup>, 2022.
- Please use as many words and images as you feel necessary to describe accurately your proposal. Do not be limited to this document and feel free to attach supporting documents as appropriate.
- Please reach out with any questions to the Select Board at [selectboard@montereyma.gov](mailto:selectboard@montereyma.gov) or mail to Town of Monterey Select Board / Post Office Box 308 / Monterey, MA 01245.

**Requestor information**

Name of requesting entity (public body, Town department, individual citizen, etc.):  
Public Works

Contact information for submitter:

Name: Jim Hunt

Phone number: 528-1734

Email: [dpw1@montereyma.gov](mailto:dpw1@montereyma.gov)

Mailing address: Box 308, Monterey, MA 01245

**Date request is submitted 9/2/22**

**Funding information**

Amount of request: \$90,000

Will additional funds be required to complete the project? No

*If yes, where will those funds be obtained? Click here to enter text.*

Will additional expenses be incurred regularly for maintenance or replacement after the initial project? Yes

*If so, how will maintenance be funded? (Operating expenses within the Line item budget in annual Town Meeting, regular replacement or maintenance to be added to the capital plan, or other – please specify):* Operating expenses within the current highway budget

**Proposed project**

What is the proposed use of these funds? Up to 80 horse power four wheel drive tractor with an offset roadside mower to replace the 1992 model tractor, originally purchased used. Delivery would be expected for the next mowing season in 2023.



### **Statement of benefits**

How will this project benefit the residents of Monterey? This would enhance our roadside mowing campaign by providing a more stable user friendly platform while reducing down time for repairs. A modern warning light package and increased visibility will enhance safety. This season we were without this unit for four weeks while we replaced the water pump and repaired the exhaust system. The aging tractor will be proposed to be replaced this coming season. There is major fuel leak from the injector pump, exhaust fumes enter the cab, air conditioner does not operate, vent windows are propped open with clamps, and the oil coolers for the mower are worn so thin that welding is required daily. The main mower drum will need to be replaced likely exceeding the cost of a new mower head.

### **Relevance to the purpose of the American Rescue Plan Act**

How will this project fulfill the purpose of ARPA? Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building<sup>123</sup> of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services.

### **Additional comments**

Is there anything else that the Select Board should know while considering this proposal for use of ARPA funds?

When considering this project, we ask that you remember the operator's health and wellbeing. We also ask you to consider the downtime caused by frequent breakdowns and associated repairs. This taxes our labor and pulls us from other important tasks. The use of ARPA funds will allow the town to continue to use other funding streams (i.e. chapter 90, town meeting appropriations, stabilization, etc) for road maintenance and repair, as opposed to using those funds for this project.

**Please email completed forms to [selectboard@montereyma.gov](mailto:selectboard@montereyma.gov) or mail to Town of Monterey Select Board / Post Office Box 308 / Monterey, MA 01245.**



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