



Personnel Study Task Force  
Date: September 12, 2022; 4PM  
141 Keys Road – 1<sup>st</sup> Floor Conference Room

Or

Join Zoom Meeting

<https://us02web.zoom.us/j/85088534292?pwd=eGtDY3doOHc5eUhmZVhkZnZtcm5ydz09>

Meeting ID: 850 8853 4292

Passcode: 743683

Call to Order

Roll Call

Approval of PSTF Minutes of August 25, 2022

Status Discussion of Draft recommendations

Logistics of Forum

Other Meetings Planned are:

Forum – September 19, 2022 1PM CMLP

Meeting with Select Board to present Final Recommendations – October 3, 2022

Public Comment

Adjournment (by roll call)

**Personnel Study Task Force  
Meeting Minutes  
August 25, 2022**

**PRESENT:** Co-Chairs Anne Rarich and Ruth Lauer; Paul Macone; Remote Participant via speaker phone Bruce Button

**ABSENT:** None

**Others Present:** Staff Assistant Erin Mulcahy; Resident Anita Tekle

**Call to Order**

At 4:00 pm on Thursday, August 25, 2022 in the conference room at 141 Keyes Road, Concord, Ruth Lauer called the meeting to order by roll call vote, with A. Rarich, R. Lauer, P. Macone and B. Button all voting in the affirmative to open the meeting.

**Remote Participation**

Ms. Lauer noted that Mr. Button had requested and she had granted him permission to participate remotely, since he was out-of-state and unable to participate in person. Mr. Button was connected to the meeting via speaker phone, and it was verified that all could hear him and he could hear all.

**Approval of Minutes**

On a **MOTION** made by Ms. Lauer and seconded by Mr. Macone, and on roll call **VOTE** (with A. Rarich, R. Lauer, P. Macone and B. Button all voting in the affirmative), the minutes of August 8, 2022 were unanimously **APPROVED** as drafted.

**Update of Activities Since Last Meeting**

Ms. Rarich and Ms. Lauer summarized the activities which had taken place since the Task Force's last meeting on August 8. At that meeting the Task Force had voted to approve the draft report with a few minor edits, and agreed that it was ready to post on the Task Force's web site. The draft report with the approved revisions was sent to Erin Mulcahy on August 9 for posting.

- Erin Mulcahy was advised by Acting Town Manager Fire Chief Tom Judge and Administrative Manager Chris Carmody that she was not allowed to post the draft report.
- Chief Judge and Mr. Carmody met with Ms. Rarich and Ms. Lauer via zoom on August 12, at which time they voiced concerns about the report, and asked that it not be posted by the Task Force. Interim Assistant Town Manager Kellie Hebert joined the meeting for part of the time.
- Chief Judge and Mr. Carmody indicated that Labor Counsel had suggested edits to the Report and asked that the edits be made. Mr. Carmody informed Ms. Rarich and Ms. Lauer that the Town's liability insurance would not cover the Task Force members, both individually and collectively, if the changes were not made. Ms. Hebert also indicated that the Task Force would be held liable as individuals and as Task Force members if any "matters of law" were not observed by the Task Force. After questioning, Ms. Rarich and Ms. Lauer were advised that only matters of law would be binding on the Task Force. Some of the edits the staff considered "cushioning language," and not a matter of law.

- There was considerable discussion as to whether the draft document is a public record. Ms. Rarich and Ms. Lauer indicated that it is a public record, since it was used and distributed at a public meeting (August 8) and was already in circulation. The response received from staff was that the document is no longer a public document since it is in the hands of Labor Counsel.
- Ms. Rarich and Ms. Lauer indicated that any changes made to the document going forward would have to be discussed and voted at a public meeting of the Task Force. Mr. Carmody disagreed, and felt that Ms. Tekle could just make the recommended changes without a vote of the Task Force, since she is not a member of the Task Force. Ms. Rarich and Ms. Lauer disagreed, suggesting that such an action would be unethical and a violation of the vote taken by the Task Force. Any changes to the document would have to be voted at a public meeting, and could then be physically made to the document by Ms. Tekle.
- Ms. Lauer and Ms. Rarich spoke with Select Board Liaison Terri Ackerman over the weekend following the 8/12 meeting, expressing their dismay at the threatening behavior of staff, which they considered an appalling disrespect for the public process. Ms. Ackerman agreed to meet with Chief Judge.
- Ms. Rarich asked Mr. Carmody to forward to the Task Force the specific changes proposed by Labor Counsel. From looking at the proposed redlined document change history, many of the recommendations were made by staff and did not appear to have any legal basis. A new version of the redlined document was received on August 19, with additional edits.
- Ms. Lauer and Ms. Rarich were at first assured that all the proposed edits were made by Labor Counsel, which was not consistent with the 7-page document change history, which clearly noted that the majority of changes were made by Mr. Carmody. Ms. Lauer noted that at this point she has received four distinct redlined versions of the report from Mr. Carmody, each successive one with additional edits. It was explained that among the edits are suggestions which would address the issue of possible legal challenge of a current or former employee should any comments disparage an individual's character or performance.
- Ms. Rarich reported that she had sent an email on Wednesday August 24 to Town Manager Kerry Lafleur asking that the August 29 forum be postponed, since the Report had not been posted and there was no time for employees or the public to review the document prior to forum. She asked that the logistics person making arrangements for refreshments also be notified of the postponement.

In the discussion which followed, all members noted that the findings in the Report are based on minutes, interviews, survey, or other data and information collected by Task Force members. Any effort to delete references to actual findings were considered by the Task Force members to be a coverup by staff. Some of the suggested edits are incorrect and untruthful. The Co-Chairs felt that they were being wrongfully coerced and threatened into making changes to the Report.

In response to a question from Mr. Macone, Ms. Lauer indicated that Mr. Carmody told her that he had contacted the Town's liability insurance carrier and was told that Task Force members would be held liable for breaking the law.

On a **MOTION** made by Mr. Macone and seconded by Ms. Lauer, the following was unanimously **VOTED** on a roll call vote (with Ms. Rarich, Ms. Lauer, Mr. Macone and Mr. Button all voting in the affirmative):

That the Personnel Study Task Force approve the following action be taken by the Chairs of the Task Force:

The Chairs formally request, in writing, to the Town Manager, that the Town approve funding in its entirety, an attorney chosen by the Chairs of the Personnel Study Task Force, to represent the members of the Personnel Study Task Force regarding any issue arising out of statements or actions taken, made to the Chairs of the Personnel Study Task Force by Concord Fire Chief Thomas Judge (acting in his temporary capacity of Acting Town Manager during a period of time in August 2022), or Christopher Carmody and Kellie Hebert acting in their capacity as employees of the Town of Concord during the same period, regarding any potential loss of liability coverage afforded to the members of the Personnel Study Task Force by the Town of Concord. Representation by counsel for the Concord Personnel Study Task Force will include any proposed changes made by the above mentioned and attorney Kim Rozak acting in her capacity as Labor Counsel for the Town to a draft final report made by the Personnel Study Task Force. The Personnel Study Task Force Chairs shall hire counsel, to be paid for by the Town at an hourly rate not to exceed the hourly rate paid by the Town of Concord to Attorney Kim Rozak, or her law firm.<sup>1</sup>

During the brief discussion which followed, it was agreed that a disinterested neutral third-party attorney with municipal experience, preferably not residing in Concord, would be sought. The above request will be made to Town Manager Lafleur by Ms. Rarich on behalf of the Task Force, with copies sent to members of the Select Board.

Mr. Macone commented that he had served as a Police Officer in Concord for 30 years. During this high-stress job, he had always felt that the Town “had his back.” He has now been retired for 12½ years, and willingly agreed to serve on the Task Force when asked. After the recent experience he has had with the Task Force and its interactions with Town Officials, he no longer feels that the Town of Concord supports the efforts of its citizens serving on boards and committees. We are all working towards a common goal of making the Town a better place to live and work. He has gotten to the point that he no longer recognizes Concord as the place that he has lived, worked and loved for decades. He is saddened and deeply disappointed.

Mr. Macone noted that the Town of Carlisle has a Town Governance Satisfaction Survey posted on its web site, with no redactions despite many strong negative comments made about specific departments, committees and/or staff. This is in sharp contrast with Concord’s employee survey which was sent to Labor Counsel before it could be posted, and returned with several redactions.

On a **MOTION** made by Mr. Macone and seconded by Ms. Lauer, it was unanimously **VOTED** on a roll call vote (with Ms. Rarich, Ms. Lauer, Mr. Macone and Mr. Button all voting in the affirmative): To reject the seven pages of edits to the Report sent by staff to the Task Force, dated August 19, 2022.

Ms. Tekle presented some housekeeping edits, as follows:

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<sup>1</sup>This motion is made procedurally pursuant to the Town of Concord APP #14 Utilization of Town Counsel (Effective date June 1999; Revised Sept. 2012).

1. Page 4, Background, Personnel Board – fill in the dates as to when the Personnel Board was originally formed, when the Personnel Bylaw was originally adopted, and when the date of when the size of the Personnel Board was changed from three to five members.
2. Page 7, Proposals to Reduce Role of Personnel Board to Advisory (1<sup>st</sup> paragraph) – change the language to eliminate reference to the Town Manager, Human Resources Director and some members of the Personnel Board in the last sentence.
3. Page 9, Methodology (5<sup>th</sup> paragraph) – eliminate the reference to the former Town Manager and Human Resources Director in the first sentence.
4. Several places in the document – replace the word “terminations” with “separations” or “departures” whenever the word appears in the text.

On a **MOTION** made by Mr. Button and seconded by Ms. Lauer, it was unanimously **VOTED** on a roll call vote (with Ms. Rarich, Ms. Lauer, Mr. Macone and Mr. Button all voting in the affirmative), to accept the above housekeeping changes suggested by Ms. Tekle.

#### **Postponing August 29 Forum**

On a **MOTION** made by Mr. Button and seconded by Mr. Macone, it was unanimously **VOTED** on a roll call vote (with Ms. Rarich, Ms. Lauer, Mr. Macone and Mr. Button all voting in the affirmative), to postpone the August 29 forum due to the fact that the draft Report could not and has not been posted.

Ms. Rarich agreed to reach out to Town Manager Lafleur to update her on the status of the Task Force and the Report, and ask her to cancel the forum. The Select Board will be copied on the email.

#### **Other Meetings Planned**

- Next Meeting of Personnel Study Task Force – Tuesday, September 6, 4:00 pm
- Forum – to be scheduled
- Meeting with Select Board – currently scheduled for September 19, but will most likely be postponed if the Forum has not yet been held.

#### **Adjourn**

On a **MOTION** made by Mr. Button and seconded by Mr. Macone, it was unanimously **VOTED** on a roll call vote (with Ms. Rarich, Ms. Lauer, Mr. Macone and Mr. Button all voting in the affirmative), to adjourn the meeting at 5:15 pm.

Respectfully submitted,

Anita S. Tekle  
Temporary Recording Secretary