

**SELECTMEN'S MEETING MINUTES
UPSTAIRS MEETING ROOM
1 AVENUE A, TURNERS FALLS, MA
MONDAY, JANUARY 07, 2013**

Meeting was opened at 7:00 PM in the Upstairs Meeting Room. Present were Selectpersons, Mark Fairbrother, Chris Boutwell, Patricia Allen, participating remotely; Town Administrator, Frank Abbondanzio; Administrative Secretary, Wendy Bogusz; Chris Curtis, Recorder,

Meeting is being taped
Patricia Allen is participating remotely due to geographic distance

Approve minutes of November 19, 2012. Minutes of November 26, December 3, 10, and 17, 2012 if available, votes may be taken

Fairbrother makes the motion to approve the minutes of November 19, 2012. Seconded by Allen, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Allen - Abstain

Town Administrator's Report

Designation of Environmental Certifying Officer

Abbondanzio: This is done every year and specifically for the Community Development Block Grant that is being filed for FY2013. It's a way for the funding agency Housing Urban Development to make sure all the activities that are done under the grant are using the grant monies in accordance with the National Environmental Policy Act. As the Environmental Certifying Officer, I'm responsible for signing off on the process and this is something the Regional Housing Authority as our administrative entity has put together. This has to be done as part of the grant application being put into the State. I will be certifying that issues are being addressed by Housing Rehab specialists that are working at the housing authority and they receive whatever training is appropriate to go through the environmental review process.

Boutwell: In capacity as Chair of the Board of Selectmen for the Town of Montague, Massachusetts, I designate Frank Abbondanzio, Town Administrator as the Towns Environmental Certifying Officer.

Fairbrother makes the motion to appoint Frank Abbondanzio as Environmental Certifying Officer for the purposes of and the duration of FY13 Community Development Block Grant Application. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye

Hearing on grievance filed by the United Electrical, Radio and Machine Workers of America, Local 274 regarding light duty,

Present: Mahamed Omar el-Malah, Field Organizer for United Electrical workers, Robert Brownlee, Shop Steward, Billie Ann Hudson, Tom Bergeron, DPW Superintendent, Jay Talbot, Legal Counsel, for Town of Montague

El-Malah: This grievance rises from an incident on November 27, 2012. Billie Hudson the grievant went to the Superintendent of Highways with the Chief Steward to request she be put on light duty. She had been out for some time with an injury, the doctor faxed the form to the Superintendent's office on November 27, 2012. The grievant and steward were told there is no light duty work which the union understands to be not true in terms of past practice. A grievance was subsequently filed on that day alleging articles 3 and 4 of the collective bargaining agreement were violated. Three would be in regards to past practice and 4 would be in regards to discrimination. We believe Billie was discriminated against on the basis of a protected category specifically where she is the only woman in the department. We believe it is part of a pattern of discrimination against Ms. Hudson that we have previously documented with letters to the Town Manager before. Obviously that would not just be in violation of the contract but a violation of Mass. law. Our request in terms of the remedy is for she is now back at work, we would like her to receive back pay between 11/27/12 and 12/14/12. The Union and the grievant would also accept in lieu of back pay, vacation time, sick time, what have you.

Bergeron: Yes, she did come to me on November 26, 2012. First of all it wasn't articles 1, 3 and 4 it was articles 1 & 4 that they have in their grievance letter. Secondly, we have not had light duty work, we do not do light duty work simply because there is none. Her note coming back said she may return to work driving, light duty work no heavy lifting. I don't have enough time for someone to be behind the wheel for 10 hours just driving. We do not have light

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duty work which is raking, shoveling, and whatever is needed. Also saying no heavy lifting, there is nothing on here stating what heavy lifting is; is it 5 lbs., 10 lbs., 20 lbs., 30 lbs. if she lifts a street sign and steps on her leg wrong and twists it and breaks it again, is that my fault because it was too heavy? There was no weight stating how heavy, heavy lifting was. Also in the doctor's note there was a statement saying if the employer cannot accommodate these restrictions the patient is not medically cleared to return to work. There is no discrimination; there is no light duty whether it is her or anybody else.

Brownlee: First off, that's a load of crap. Light duty has been done down there. We had a previous employee who had a mild heart attack, got put on light duty, he painted the shop. I understand that was just done this past summer so it might not need to be done again. At the time of the incident he could have helped the tree warden with raking, his idea. Give Butchy the janitor a hand for a couple of weeks doing whatever odd jobs that he may not have been able to get around to. You're going to sit here and say there is no light duty down there and it has never been done. There is light duty that can be done; the only restriction on there was no heavy lifting and that could have been easily clarified by calling up the doctor and saying what do you think is too much for heavy lifting. That was never even an option.

Bergeron: It's not my job to produce that.

Further discussion about light duty

el-Malah: I think as Robert has made clear, it is the Union's position that there is light duty work. Again, we believe this is part of a pattern of discrimination against Ms. Hudson, the only woman working in the department and we are generally concerned with it. We expect the Selectboard will make the situation right.

Bergeron: You are also forgetting when another employee who broke his ankle came back was given a note for light duty, he was turned down also.

Allen asks if there is anything in the contract specifying what light duty is. Answer is no.

Talbot: There are contracts out there that do specify light duty and when an individual comes back from light duty. I don't see anything mentioned in this contract about light duty.

Allen: The individual who supposedly was doing "light duty", was that person also out with a medical form?

Bergeron: I actually looked through this persons records and didn't find complete records because he worked here two times before this, so I went up and talked to him and he said he did not come back on light duty he came back at 100% because as a CDL driver with a class 1, he's not allowed to come back on light duty. The reason he did the painting he did was because we needed something painted and he was the one that wanted to do it.

el-Malah: It would be the Unions position that sometimes people are given light duty without is being officially made light duty and we are not responsible for that.

Bergeron: That was a job assigned to him because my office needed painting and so didn't the break room and he was willing to do it.

Talbot: As far as the silence in a contract in regards to light duty, that could be for numerous reasons, but are there contracts that exist that have been written that reference light duty, yes, I have seen some.

el-Malah: I can state that other DPW units that I represent there does indeed exist light duty. It's a limited amount normally, but it is typically there. A lot of the times its dependent upon how much management willing to work with the employee and it would be our position that in this instant, management had decided before hand that they were not going to work with the employee.

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Bergeron: Don't speculate what I thought.

Discussion

The Board has 5 days to respond to this grievance. Atty. Talbot thinks it would be wise for the Board to discuss the matter and will advise the Board as to what the laws and the contract says, but as far as the finding of facts, that is a job for the Board. The issue here is was the contract violated? They are making the argument the contract was violated based upon the past practice of allowing people to come back to light duty. It is up to the Board to determine if that is the case.

The matter will be taken under advisement

Personnel Board and Charles Dodge, Chief of Police

Request that Reserve Officer pay be increased to \$16.00 per hour upon completing 416 hours of service

Talbot needs to review contract to see how officers are put in there

Fairbrother would like this tabled until Counsel has a chance to review current contract and see where this comes up and depending on what that answer is, both sides address it in the new contract.

Request Reserve Officer Sergei Skorupa's rate be increased to \$16.00 per hour

Fairbrother makes the motion to raise Sergei Skorupa's Reserve Officer hourly rate to \$16.00 per hour because he has worked over 416 hours as a reserve, contingent our Counsel advises us that it does not conflict with contract effective January 1, 2013. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye.

Request to increase Claude Lapointe's hours to 20 hours for the purpose of snow removal and cleanup after storms (weeks with storms)

Dodge: Our current janitor, Claude Lapointe is approved to work 15 hours a week to keep our station clean and also for snow removal, yard work, whatever is required. He is like the jack of all trades for us. What I noticed with those snow storms we just had, he was spending 3 – 5 hours outside and he would have to sacrifice inside janitorial work for work he was doing outside. It is not really an issue 9 months out of the year, but right now with the snow and inclement weather it is hard for him to keep up with the inside work

Abbondanzio: We don't want to go over 19 and trigger benefits. This would just be extra hours not overtime.

Fairbrother moves that the Board allows the Police Department Janitor position to work beyond 15 hours per week up to 19 hours a week, the extra hours being for the sole purpose of weather clean up, snow and ice clean up on the outside of the facility. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye

Reserve Officer Hiring Update

Dodge: When we left the Reserve interviews, Selectmen Fairbrother wanted a copy of the employment applications and their resumes. I can't remember if the Board said let's wait until we see all this before we move to send out a conditional offer of employment or if it was voted at that meeting that we can send out the conditional offer.

Boutwell: I thought we gave the okay to send out the conditional offer, but Mark wanted to see the resume.

Allen thinks we should move ahead

Fairbrother makes the motion to instruct the Town Administrator to have the conditional offer of employment letters sent to the three candidates. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother – Aye

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Dodge wants to publicly thank the officers and the dispatchers of the Montague Police Dept for the great job they've been doing. They have been solving some really good cases including the B & E's. There are some crazy things that have been happening and these guys have been going above and beyond. I really do appreciate what they have been doing for the Town.

Bergeron also sends out a thanks to the Dispatchers for all their help during snow storms.

**Personnel Board and Gina McNeely, Health Director, votes may be taken
Changes to current Comp Time Policy for Exempt Personnel**

Abbondanzio: The main issue we were hoping to address is making changes to the policy. We do have some employees that do a lot of work on Fridays, mainly because Housing Court does a lot of their business on Fridays and because of wording in the policy you can't use the time during the week it was accrued because it was on Friday, you end up getting penalized. To me that's what needs to be addressed.

McNeely agrees there needs to be a couple of sentence changes made to the current policy. Simply to say that employees working 35 hours a week will be granted compensatory time at a rate of 1 hour for each hour worked in excess of 35 hours. Currently that reads in excess of 37.5. There are a lot more events that are happening on the weekends so I have to work the first 2-1/2 hours uncompensated. This also affects the Building inspector also.

Fairbrother moves that the Board makes the following change to the Town of Montague's Compensatory Leave Policy Exempt Personnel Manual, by striking the following: For employees working either a 35 or 37.5 hour work week compensatory time shall be granted at the rate of 1 hour for each hour worked in excess of 37.5 hours. This would be replaced with the following: For employees working a 35 hour work week compensatory time shall be granted at the rate of 1 hour for each hour worked in excess of 35 hours. For employees working 37.5 hours per work week, compensatory time shall be granted at the rate of 1 hour for each hour worked in excess of 37.5 hours. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother – Aye.

Fairbrother would just as soon see comp time removed entirely and if a person has to work hours beyond their normal hours they can get paid.

**Frank Abbondanzio, Town Administrator
Appoint 2nd Alternate Plumbing Inspector until June 30, 2013, John Letourneau**

Fairbrother makes the motion to appoint John Letourneau as the Building Department 2nd Alternate Plumbing and Gas Inspector for a 6 month term beginning January 1, 2013 through June 30, 2013. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye

Other

Abbondanzio: Since we will not be meeting in the next 5 days we need to discuss the earlier grievance and we need to make a decision in open session.

Fairbrother makes the motion to deny the grievance. Seconded by Allen for discussion

Allen: The information I was hearing and my understanding is there is no official light duty, there is nothing in the contract and it sounds as though the individual was actually on full duty not light duty even though he or she may have been doing jobs that could be construed as lighter duty than normal.

Fairbrother makes the motion to deny the grievance. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother – Aye

Jay Talbot will write up a letter for the Board's signature.

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John Reynolds asks what the Board has agreed to do in regards to our access to the Dry Hill Cemetery. This has not been discussed by the Board at this point and will be put on the next agenda.

Boutwell makes the motion to go into Executive Session, under G.L. c.30A, §21(a)(3) to discuss strategy with respect to Litigation, Erving – Montague Sewer Agreement, votes may be taken. Seconded by Fairbrother, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother – Aye

Allen declares there is no one else in the room with her.

Boutwell declares as Chair this would have a detrimental effect on the Town if it was discussed in open session.

Allen makes the motion to adjourn the meeting at 8:15 PM. Seconded by Boutwell, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye