

APPROVED AUG 30 1999

**BOARD OF SELECTMEN'S MEETING MINUTES – August 19, 1999
CONTINUATION OF EMPLOYEE TERMINATION APPEAL
HEARING OF AUGUST 9, 1999 FOR KENNETH FALES III**

MEETING CALLED TO ORDER: The meeting was called to order by Chairman Tim Seeger at 6:02 p.m.

PRESENT: Chairman Tim Seeger, Selectmen Denise Dargie and Eric Tenney, Town Administrator Kelley Collins, Assistant Fire Chief Dick Edmunds, Assistant Fire Chief Bob Bethel (Fire Chief Mike Beauchamp was unavailable due to a death in the family in Michigan) and Mr. Kenneth Fales III.

Under RSA 91-A:3, II – a Chairman Seeger gave Mr. Fales the opportunity to conduct this hearing in Non-Public Session. Mr. Fales requested an open meeting. The Chairman noted that he had been approached by Mr. Fales with a request to have a person, of Mr. Fales choosing, sit at the table and take notes for him. Chairman Seeger agreed to this request.

Chairman Seeger announced that only the Selectmen, Assistant Fire Chiefs and Mr. Fales will be allowed to participate in this meeting. This meeting is also for the sole purpose of reviewing Mr. Fales personnel file as requested at the August 9, 1999 appeal hearing. No one else will be allowed to participate and nothing other than the personnel file will be considered.

Item #1 – Copies of letters released to the media

K. Fales noted that this wasn't really the way this incident happened. Keith Nason (Bennington) was at the hearing (8/9/99) but wasn't on the call. Mr. Fales does not believe this happened and he would like to place a response in the file.

Determination: document will remain in file – K. Fales will respond in writing

Item #2 – Termination letter (from Rescue Squad) dated 8/10/99

Mr. Fales notes this was written by the Selectmen

Determination: this document remains as part of the personnel file

Item #3 – Resignation Letter from Mr. Fales from the Antrim Rescue Squad 8/9/99

Mr. Fales would like the Board to reconsider their termination of him from the Rescue Squad and allow him to resign. He is also asking the Chiefs to re-think this. Mr. Fales notes that he may want to continue his career somewhere else and a termination notice will not help. Asst. Chief Edmunds notes that Mr. Fales was suspended for 4 months in April 1997 and told if it happened again it would mean termination. As far as Asst. Chief Edmunds is concerned it has happened again.

Determination: this document remains as part of the personnel file

Item #4 – Letter requesting an appeal hearing dated July 27, 1999

Mr. Fales agrees this is the letter he sent requesting a hearing

Determination: this document remains as part of the personnel file.

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Item #5 – Termination letter from Board of Selectmen (BOS) dated July 22, 1999
Mr. Fales asked that if he is reinstated and allowed to resign could this letter be removed, as having no bearing.

Determination: this document remains as part of the personnel file.

Item #6 - Cover letter from Ambulance Captain dated 7/16/99 with attachments

Mr. Fales noted that this was the same as Item #1.

Determination: Mr. Fales will prepare a response.

Item #7 – Recommendation of Dismissal from Sr. Officers with 7 supporting documents

8/7/90 – Assistant Chief Bethel asked Mr. Fales if he is in agreement with this document. Mr. Fales notes that it is signed by four members. **Determination:** this document remains as part of the personnel file

10/22/96 – Mr. Fales states that he did have employee's permission to request a copy of his training files. The Asst. Chief's noted this was investigated at the time and the employee involved stated that he did not give Mr. Fales permission to request his training records from a previous employer. Mr. Fales does not agree with this document

Determination: this document remains as part of the personnel file.

9/27/96 – K. Fales reviewed this document with fellow firefighters who were involved and it is not true. Hank Cutter never spoke to K. Fales about washing his private vehicles. Selectman Seeger noted that Mr. Fales has the right to put a written response in the file.

Mr. Fales noted that he is here for an hour and a half to go over his personnel file. He has been a firefighter with Antrim for thirteen years, and officer for six or seven and an EMT for about ten years and he does not feel this is a laughing matter. He asked Asst. Chiefs Edmunds and Bethel to please quit grinning this is a very serious matter.

9/27/99 continued – Mr. Fales noted that when a bunch of the members joined they were told to go directly to the scene. Asst. Chief Edmunds noted that on a recent car fire near on Route 9, Mr. Fales signed on and was told to bring a truck. Asst. Chief Edmunds noted upon his arrival on the scene that Mr. Fales was there but did not bring a truck. Mr. Fales noted that he did not hear the request to bring the truck. He will obtain letters to that effect.

Determination – Mr. Fales will be submitting a response.

Item #8 – Written warning dated May 17, 1999 (scene response)

Mr. Fales noted that he signed this warning under protest. He notes that the Standing Committee asked questions about this particular incident a couple of times and were only told that it originated from Hillsborough. Mr. Fales would like this document removed from his file.

Determination: document will remain in file -- Mr. Fales may submit a response.

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Item #9 – Written warning dated May 17, 1999 (operation of vehicle)

Mr. Fales does not agree with this document

Determination: document will remain in file -- Mr. Fales may submit a response

Item #10 – Response to verbal complaint dated 2/1/98

Mr. Fales was aware that this was in his file. He was sent a copy by Captain Lovering

Determination: this document will remain in personnel file

Item #11 – Letter from Mr. Fales ex-wife's attorney dated 10/1/97

Mr. Fales was aware of this document. The Town did not get involved.

Determination: this document will remain in personnel file

Item #12 – Probation period notice dated 7/6/97

Mr. Fales was aware of this document he received a copy from Capt. Lovering

Determination: this document will remain in personnel file

Item #13 – Notice of hearing (with accompanying fax notice) dated 4/15/97

Mr. Fales asked that the faxed, draft notice of meeting, be removed from his file. The Selectmen agreed to remove the draft notice. The actual notice of hearing will remain in personnel file.

Determination: Draft notice has been removed and destroyed – Actual notice remains

Item #14 – Letter from K. Fales to Chairman P. Moore dated 4/14/97

Mr. Fales has no problem with this letter. He wrote this to the prior Chmn. of the Board of Selectmen before his prior suspension hearing.

Determination: this document remains as part of the personnel file

Item #15 – Suspension & probation notice dated 4/13/97

This document is a memo from Chief Beauchamp to the Selectman asking that K. Fales be allowed to participate in training during his suspension & probation.

Determination: this document remains as part of the personnel file

Item #16 – Minutes of Officer's meeting dated 4/4/97

Mr. Fales is not sure why these minutes are in his file but doesn't have a problem with these since he brought some of these items to the Officers' attention

Determination: this document remains as part of the personnel file.

Item #17 – Minutes of Officer's meeting dated 2/20/97

Mr. Fales disputes this document. He specifically wants to know why the minutes of an officers' meeting are in his file. Mr. Fales states "... damn well everyone else should have it (in their file) too." There were several different things Mr. Fales had complained about which initiated this meeting. Selectmen Seeger noted that it may have something to do with items #18 and #19 and that is probably why it's here. K. Fales asked if this

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document is in anyone else's file. Selectman Seeger noted that they are not there to address anyone else's file. Mr. Fales did note that he knew it was in his file.

Determination: this document remains as part of the personnel file.

Item #18 – Letter of complaint from a patient's Aunt dated 2/20/97

Mr. Fales was aware of this letter of complaint and aware it was in his file.

Determination: this document remains as part of the personnel file.

Item #19 – Letter of complaint from a patient's Mother dated 2/19/97

Mr. Fales was aware of this letter of complaint and aware it was in his file.

Determination: this document remains as part of the personnel file

Item #20 – Complaint letter dated 2/18/97

Mr. Fales was aware this item was in his file.

Determination: this document remains as part of the personnel file

Item #21 – Written Warning (improper request of records) dated 10/22/96

Mr. Fales has a problem with this item as discussed under Item #7. He asks that this item be removed as it is a duplicate of an attachment to #7.

The Town Administrator pointed out that the reason it is in the file twice is because it was submitted as a complaint for his personnel file and then submitted again by Asst. Chief with their letter requesting his termination as backup. The Town Administrator noted that destruction of this document makes it difficult for the Town to prove that we had it prior to the submission of Item #7 in 1999.

Determination: Selectmen agreed to remove this document as a duplicate as long as Mr. Fales stipulates that it was from 10/96 and not just submitted in 1999. Mr. Fales agreed.

Item #22 – Memo from Chief Beauchamp to BOS dated 9/30/96

Mr. Fales is concerned with this document as it appears he has done something but he has no idea what it pertains to. The memo states that the Chief is personally involved in an issue before Sr. Officers re: Mr. Fales and that he cannot be involved in a decision in this matter. The Town Administrator notes that this would have been placed in an employee's file so that if it came to the Town Hall they would know not to involve the Chief.

Determination: The Selectmen will leave this item in Mr. Fales personnel file pending review and clarification by the Fire Chief.

Item #23 – List of verbal & written warnings by Co2 dated 9/27/96

Mr. Fales already addressed this document as an attachment to Item #7 also. He asked that it be removed from his file as redundant.

Determination: Selectmen agreed to remove this from Mr. Fales file as redundant, it will remain as an attachment to Item #7.

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**Item #24 – Copy of memo to SFMA from Chief appointing K. Fales Deputy Warden
6/10/92**

Mr. Fales knew about the appointment has no problem with this document.

Determination: this document will remain as a part of personnel file

Item #25 – Written warning from Standing Committee dated 8/7/90

Mr. Fales addressed this as part of Item #7 and wants it removed as redundant.

Determination: Selectmen agreed to remove this as redundant, it will remain an attachment to item #7

Item #26 – 1998 IRS form W-4

Mr. Fales has no problem with this document

Determination: document will remain a part of personnel file

Item #27 – 1992 IRS from W-4

Mr. Fales has no problem with this document

Determination: document will remain a part of personnel file.

Mr. Fales notes there is a lot of dispute to his file. At this point he has already given up a month with the fire department. Mr. Fales is requesting a change in status with Antrim Ambulance from terminated to resigned. He is also asking to be reinstated as a firefighter. Mr. Fales asked Selectman Dargie if she used items from the September 1996 memo to make the termination decision.

Assistant Fire Chief Bethel states there is always going to be some dispute but this file shows a pattern.

Mr. Fales is upset that he received two written warnings on May 17, 1999 stating that if he did either of these things again he would be suspended. One week later he was terminated. (NOTE: Mr. Fales date of termination was July 22, 1999). Mr. Fales wants to be reinstated.

Chairman Seeger states that Mr. Fales knew the department's policy and violated it. Mr. Fales states he did not know, he was only made aware of the policy on May 17, 1999.

Asst. Chief Bethel notes that to the best of their knowledge this information is the truth according to the three senior officers. We could drag this on forever. Asst. Chief Edmunds states that it is in the Selectmen's hands now.

Chmn. Seeger noted that we held an open hearing, wrote two termination letters, upheld the termination from the ambulance and changed it to a suspension from the fire department pending a review of Mr. Fales personnel file. Clearly there are several items of dispute and Mr. Fales may place anything he likes in the file. Chairman Seeger also states that this is a lengthy file with a timeline of documented conduct that is not

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becoming a professional firefighter going all the way back to 1990. It shows continuing behavior for almost ten years.

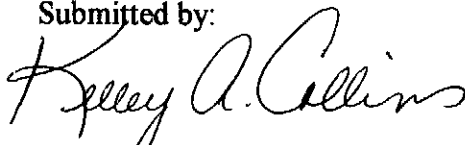
Selectman Dargie states that there appears to be a problem with discipline. Even with disputed items and items removed there still seems to be a problem with authority. It doesn't seem to be getting better – it's worse.

Selectman Tenney notes there are two issues at work here good faith and spirit and intent. Selectman Tenney thinks Mr. Fales acted in good faith and doesn't question his good will but with regard to spirit and intent he thinks Mr. Fales gets carried away. He notes that we all live in glass houses but the question is how often does the glass break. Selectman Tenney made a motion, in the interest of good faith and fairness, to continue the suspension for 2-3 weeks so that Mr. Fales may rebut the disputed items. This motion failed for want of a second.

Chairman Seeger notes that when he looks at the file and listens to the Chiefs he believes this history started a long time ago. Chmn Seeger made a motion that based on the August 9, 1999 hearing and subsequent review of the personnel file on August 19, 1999 that the July 22, 1999 termination with no consideration for rehire stand. Selectman Dargie seconded. VOTE: 3-0.

The Town of Antrim and the Antrim Fire Department would like Mr. Fales to return all property and equipment within 24 hours.

Submitted by:



Kelley A. Collins
Town Administrator

/kac