

Board of Selectmen
May 9, 2014
Minutes

Members present: Jeanne Pryor, William Elovirta, Angela Hilton

Others Present: Ed Gibson, Nina Weiler, Colleen O'Connor, Beth VanNess, Robert Ronzio, Chris Bouchard, Tim Zessin-Town Counsel, George Fuller

3:00 PM Jeanne called the meeting to order.

Jeanne moved that the Board to go into Executive Session pursuant to G.L. c. 30A, sec.21 (a) (1), to discuss the discipline of a Highway Department employee, Bill seconded. Roll call vote: Bill-aye, Angela-aye, Jeanne-aye.

Jeanne announced that because the Board is in executive session, the public would need to leave the meeting. Tim Zessin, town counsel advised that the employee could opt to have this meeting in open session. George advised that he wished to have the meeting in open session. The Board returned to open session.

Jeanne asked if anyone was recording the meeting. Bob Ronzio, Colleen O'Connor, George Fuller and the Board of Selectmen are recording the meeting.

Jeanne read the letter dated May 5, 2014 that was sent to George Fuller informing that the Board of Selectmen would be meeting in Executive Session on May 9, 2014 at 3:00 p.m. to determine if there is cause to discipline him, up to and including termination of employment with the Town. Specifically the meeting is being held to discuss his positive drug test result which was obtained on March 5, 2014 during a random drug screening. As a result, in accordance with U.S. Department of Transportation regulations, he has been precluded from performing "safety sensitive" functions, which is a requirement for his position with the Highway Department. Jeanne also read the sections of the Employee Handbook that relates to this issue. The first section is "Standards of Conduct" and the next section is "Job Requirements - Highway". George asked that Bill recuse himself because he does not believe that he can act in a fair and impartial manner due to their past experiences. Bill advised that he would not recuse himself because this is about an incident not about an individual and he would respond the same if it were any other employee. He said what is in the past is in the past and he is not out to get him. Jeanne asked what George's opinion is about the policy and if he thinks it is justified to have a disciplinary action against him. George asked if the Board had anything about his license being suspended. Jeanne advised that he is unable to perform any safety-sensitive duties. George gave the Board a copy from the Registry of Motor Vehicles that states that he does not have a suspended license. Mr. Vessin explained that because of the positive result of his drug test, George is not permitted to perform his duties because he is unable to drive any large equipment. Angela stated that the policy does not say anything about safety sensitive job duties; it just states if the employee's license is suspended then he cannot perform the job duties. Mr. Zessin replied that in effect his license has been suspended while technically he still has a license on file and it is still active it is essentially futile because he cannot perform any of his duties of his job. George feels that he has done everything that Ed and Chris Bouchard asked him to back in March and does not understand why anything has changed. Jeanne advised that she has received complaints about George and the fact that nothing has been done. She admitted that she did not see the section of the Employee Handbook that relates to this issue until later on but since she has gotten complaints, and there is an appearance that there are no consequences for employees who test positive for drugs, she felt a discussion should take place.

Board of Selectmen
May 9, 2014
Minutes

Jeanne asked Chris Bouchard how this has impacted the highway department. Chris replied that it has impacted the department in the winter because he had to drive a truck. This keeps him from being in his office to complete paperwork and there have been times where he was down a man and there have been wash-outs and also for night call-ins. Bill feels that George's rate of pay should have dropped to the laborers rate when he stopped performing safety-sensitive duties. Angela feels that if the employee handbook does not state that a person's pay rate should be lowered then they should not do this. She also feels that a breathalyzer test should be done on the other highway department employees since some of the employees go home and drink alcohol and then go out and plow after they have been drinking. Briefly discussed highway workers who load their trucks with sand and salt with the loader when they do not have a license to do so. Angela feels that this practice should not be done any longer. Mr. Vessin stated that although the employee handbook states that an employee whose license is suspended can be transferred to another position which may result in a lower pay rate, the spirit of this section of the handbook would still be if a person was unable to perform the job they were hired to do then it is like having a suspended license. Angela asked Chris Bouchard if George would be doing anything differently now then he would be doing any other spring if he is not driving large equipment. Chris advised that he would be hauling gravel because they are working on patching paved roads and working on gravel roads and he is unable to drive the large trucks. Jeanne feels that even though the town's employee handbook needs some work, she still feels that the standard of conduct should be followed with respects to following safety rules and rules of operation and respecting the rights and property of others. She does not feel George was doing that when he tested positive for drugs. George feels that he has done everything that was asked of him and agreed to come out of the truck during the time he was supposed to seek treatment and only has one week left and now they are trying to do something else. Jeanne advised that she was the one to call the executive session and it was not to dismiss George or lower his pay rate; she just wanted everyone to be in the same room to discuss this issue. Angela motioned that the Board stick to the original agreement with Mr. Fuller and let him finish the week that he has left and take no other action as far as his pay or position, Bill seconded. Jeanne abstained. Motion passed. Bill motioned to immediately set the policy for alcohol and drug testing and have it approved by town counsel and have it enacted, Jeanne seconded. Motion passed unanimously.

3:40 PM Bill motioned to adjourn, Angela seconded. Motion passed unanimously.

Respectfully submitted,
Nina Weiler, Secretary


William H. Elovirta, Chairman

Documents discussed at meeting:

- Employee Handbook
- Letter sent to George Fuller informing of Executive Session