

**BOARD OF SELECTMEN  
AGENDA**

**November 13, 2012**

- 5:30 P.M - 1) Call meeting to order**  
Chairman – announce meeting is being audio recorded
- 2) Motion needed to enter Executive Session in accordance with the provisions of MGL, Ch. 30A, Sec. 21(a) (1) to hear grievance of Tracy Dalton in regards to her recent termination from the part-time position as Confidential Secretary to the Chief of Police. Roll call vote needed.**
- Announce that the Board will return to the Open session upon the close of the Executive Session for the purpose of adjournment.**
- 3) Motion to Adjourn**

## MINUTES

### BOARD OF SELECTMEN

NOVEMBER 13, 2012

Meeting called to order at 5:34 P.M.

**Present** Selectmen Elizabeth Gorski, Donald N. Greaney and Chairman William H. Darke  
Town Counsel Brian Maser, Attorney Evan Ouellette representing MIIA Insurance and  
Chief Kirmelewicz, Chief Robert Kiremewicz, Deputy Chief Jeffrey Gillen, Attorney  
Stephen Colella representing Tracy Dalton, Tracy Dalton, Dalton's husband and  
four children, her mother-in-law and aunt and Eric Gorski and Lisa Dube-Carpenter.

Chairman Darke opened the meeting by announcing that he wasn't at the previous meeting held in this matter; that at the time he felt he may have an ethic's issue inasmuch as Ms. Dalton's husband was a patient of his. Darke stated he had asked town counsel for their opinion; that they said it was fine and sent their opinion to Ethics General Counsel who responded on October 18<sup>th</sup>, 2012 stating they concurred with counsel. Chairman Darke stated he did have to file a Disclosure Statement with the Town Clerk's Office which he did that afternoon, a copy of the Disclosure is attached hereto and made a part of these Minutes.

Chairman Darke asked Attorney Maser if the meeting needed to be conducted in Executive Session and Maser responded that generally a Board will convene in Executive Session to protect the privacy interests of the subject of the Executive Session; that it's not a requirement that you convene in Executive Session, it's recommended; that if Ms. Dalton cares to have this matter in open session then she can certainly request that now. Attorney Colella requested the matter be held in open session stating that there are no confidentiality issues that are a problem here from her perspective; that they are more than willing to keep it in open session. The Board's Assistant noted for the record that she would not be taping the meeting due to the parties speaking too softly to activate the recorder. Colella gave copies of a written statement and several documents prepared by Ms. Dalton to the Board, Attorneys and Chiefs.

Attorney Maser reviewed the process, noting that Chief Kirmelewicz had presented at an earlier hearing in this matter, his reasons for his decision to terminate Ms. Dalton from her part-time position of Confidential Secretary to the Chief; that Maser noted that the Board had not had any questions for the Chief at that time and that Ms. Dalton or through her attorney now can rebut statements previously presented by the Chief or she can have witnesses testify on her behalf, and then the Chief will be allowed to give a rebuttal/response. Darke questioned that the Chief had terminated the employee; that he thought only the Selectmen could. Attorney Maser read from the Personnel Manual and explained that the employee came before the Selectmen once termination happened. Maser told the Board that the grievance hearing allows the Board the ability to determine whether Dalton should have been terminated.

Selectman Gorski asked if everyone can be sworn under oath and Maser responded that there isn't anyone in the room that has the authority to minister such an oath; and that it would be expected that everyone would be speaking the truth.

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Selectman Greaney commented that although he had been asked to be present at an earlier meeting between Kirmelewicz and Dalton prior to her being placed on administrative leave, Greaney stated that he had no participation once the Chief began his inquiry with Ms. Dalton.

Attorney Colella asked that his client be allowed to speak by reading her prepared statement. Dalton began to read from her statement, a copy of which is attached hereto and made a part of these Minutes. Selectman Greaney suggested that Dalton should tread lightly when speaking about other people who were not present. Attorney Colella suggested the meeting could revert to Executive Session. Chairman Darke commented that we are all named in this; that everyone in town is named and asked Attorney Maser to tell them if and when they are crossing the line. Selectman Gorski stated that things have been sent out all over this town about people.

Ms. Dalton continued to read her statement. Attorney Colella asked Dalton if she had received any police training, taken any police academy courses, to which Dalton responded no. He asked her to tell the Selectmen what logs are, and Dalton responded "they are public records of anything that goes on in town." Colella questioned "you were never asked to sign a computer use policy" to which Dalton stated she was not. She stated she received a personnel policy from the Board's Assistant after having worked for the town for a while. Attorney Colella commented that he doesn't necessarily agree with Ms. Dalton's information about not being able to put spyware on computers without informing the personnel first. Colella did suggest that Kirmelewicz was not holding himself to the same standards of confidentiality when he asked Selectman Greaney to attend his meeting with Dalton; that if confidentiality is a concern, then Greaney should not have been in the meeting with Dalton. Colella stated that his client inadvertently mentioned to Patrolman Traister getting Moody on the phone for the Chief

Colella stated that Dalton does not come under the guidelines of the Rules and Regulations of the Police Department; that she is a municipal employee; that she did not sign any computer policy; and that she can't be fired due to the Rules and Regulations of the Police Department. Attorney Colella referenced the town's Personnel Manual, page #9, bullet #6 "disclosure of confidential information" and told the Board that they need to decide whether that is worthy of dismissal. Colella told the board that his client's termination falls shortly upon the heels of the MCAD filing; that it is somewhat retaliatory.

Chairman Darke commented that he always thought the Board of Selectmen were the hiring/firing authority for the town. Attorney Maser explained the guidelines for a department head firing an employee and told the board that Ms. Dalton's rights after firing is the grievance procedure before the board currently. Dalton's aunt Susan (recorder did not hear the last name), a state employee, spoke on Dalton's behalf in regards to an email Tracy sent her about a letter from the Ethics Commission; that Dalton told her she didn't know if she should open it and Susan suggested she call Ethic's and inquire if she is a target. She told the board that Tracy called her for a letter of reference telling her she felt her boss was making her life miserable. Susan also told the board that Tracy had worked for Massport and knows confidentiality. Susan told the board that she believes Tracy has been wrongfully terminated and should be reinstated by the board.

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Chief Kirmelewicz was asked if he wished to respond to Dalton's statement. He referred the Board to the letter he had submitted, stated that Ms. Dalton's statement is full of false allegations and lies, and that's all he will say at this time.

Chairman Darke asked to enter Executive Session due to having some legal questions.

**Executive Session**

Moved Greaney, seconded Gorski, and it was

**VOTED:** To enter into Executive Session in accordance with the provisions of MGL Ch. 21(a) (3) for the purpose of discussing possible settlement of MCAD filing #12BEM01771 of Tracy Dalton vs. Chief Kirmelewicz and the Town of Groveland.

GORSKI, GREANEY, DARKE – "AYE"                      3-0

Chairman Darke announced the Board will reconvene in Open Session upon the close of Executive Session. All parties left the room with the exception of the Selectmen, Town Counsel and the Board's Assistant.

Executive Session was entered at 6:49 P.M. and closed at 7:09 P.M. The Minutes of the Executive Session are kept on file in a separate binder in the Selectmen's Assistant's Office.

At the close of Executive Session all parties returned to the meeting room. Chairman Darke informed everyone that inasmuch as the Board was not prepared at this time to render their decision, that they would meet again in two weeks and will have a decision at that time.

Moved Greaney, seconded Gorski, and it was

**VOTED:** To take the matter before the Board under advisement and meet again in two weeks, November 26, 2012 at 5:30 p.m, at which time the Board will render its decision. 3-0


**Adjournment**

Moved Greaney, seconded Gorski, and it was

**VOTED:** To adjourn.                      3-0

Adjourned at 7:11 p.m.

Respectfully submitted,

  
Nancy Lewandowski  
Administrative Assistant