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**BOARD OF SELECTMEN EXECUTIVE SESSION MINUTES**

**MONDAY MAY 13, 2013**

**Town Hall, 109 Front Street, Winchendon**

**2<sup>nd</sup> floor Auditorium**

Present: Robert M. O'Keefe, Chairman  
Elizabeth R. Hunt, Vice-Chairwoman  
Keith Barrows  
Jack Blair  
Fedor Berndt

James M. Kreidler, Jr., Town Manager  
Margaret Giacobone, Admin. Assistant

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List of Document Presented at Meeting:

N/A

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The Chairman of the Board of Selectmen called the executive session to order at 8:15. The Town Manager told the board that at the last meeting there was discussion with them regarding what was presented originally as a plan to outsource the assessor function. This involved providing a notice of separation to our assessing contractor and our Assessor Linda Bevan. At that point, Linda and our contractor put an offer together such that the outside agent would cut their annual fee from \$40,500 per year down to \$17,000 and Linda would reduce her salary and accept a reduction in her hours.

The Town Manager met with Linda because he got clear indication from the board that there was an interest in this being a one year opportunity. They had a discussion about renegotiating the terms and conditions of her personal service contract such that it lined up with a one year consistent of what the board wanted relating to the sick leave buy back. Right now her current contract provides for sick buy back in line with other department heads with long tenure. A new contract would not provide that level of benefit. Linda was unhappy about that and didn't think it was fair. She said that she would like to address the board herself going forward on that matter. When she left she told the Town Manager that she would let him know by today if she wanted to go before the Board.

Linda counter proposed later in the week that the number of sick leave hours that she currently has on the books ( 30 years of time and service equal roughly 2200 hundred hours of sick leave) be frozen and for the year contract going forward she would give up her sick leave accrual and buy back. Jim told her that that didn't really meet the spirit of what is being contemplated here. The Town Manager told her In fairness it can't be allowed to go forward.

The Town Manager said when Linda was given notice of her separation through layoff back in March, the one message that he received from her clearly was that she was too young to retire. Linda went

away after that first week back in March with the understanding that June 30 she was done, that she was due severance under her contract, and that she wouldn't get her 2200 if she wasn't retiring. Beth asked if she was entitled to that 2200 if she didn't retire. Jim said it would be for retirement only

There was some discussion on contract length and percentages of buyback. Jim said that the one year contract discussion that he had with Linda since the last meeting was centered on 40% on sick leave buy back retirement 20% on resignation which is the least level of benefit currently provided. Linda did not accept that as she wanted to freeze the 2200 hours at 100 percent.

The Town Manager said that Friday he left believing that he was having this discussion with the Board about her requirement to freeze that time at 100 percent and then taking a significant lesser benefit for the 1 year contract. However, when he came in this morning he was handed a letter effectively putting us on notice of her retirement. The Town Manager felt that we should have this discussion as Linda referenced her attorney had advised her to take this course.

The Town Manager said that in March when the budget was alive and open, Linda advised that she wasn't retiring that she couldn't retire and it didn't make sense. The Town Manager said that it is now the week before town meeting with the budget having been cast with her severance money included in the budget because that is what was on the table at that time, but the full package buyback money that she is entitled to is not in the budget which equals \$67,000.

Bob asked if there was any legal requirement when you must pay for sick time buy back. Jim said that he told Linda that we have a special town meeting every fall and that would be the next opportunity to consider this. She didn't seem happy about that and that is where the conversation ended.

Bob O'Keefe asked what would you have done if we didn't have the discussion about out sourcing and she just walked in your office today and said she is retiring in two weeks. Jim said she would have had to wait as Lois did two years ago. Lois waited almost a year because she missed the budget cycle. Bob asked if that has been the local practice that they have to wait till budget season. Jim said it has been the local practice and they are being realistic.

The Town Manager told the Board that he has drafted a letter acknowledging her notice of retirement effective June 30 and said that in accordance of having received that, that he is holding the letter of lay off with the proviso that if she does not retire by June 30 at 11:59 PM that the layoff takes effect.

Jack said let's keep in mind that the Chairman's instructions where to meet with her and work it out. That was done and she has come back and changed her mind in what she had articulated to you and gave you the letter we really need and you have it. Bob said that the Town Manager was following the Board's advice because many times the Board has stated that they wanted to see the sick time buy back 100% eliminated everywhere so you have negotiated in an area where you knew this board stood. Jack

said we give Linda 100 percent of what she is due on the schedule that you have. Jack said that we can all defend the action that the Town Manager has taken and any roll that that the Board has taken in it.

Keith Barrows asked the town manager if we owe Ms. Bevan anything at this point as far as a follow up conversation. Jim said no. Jim said he did ask her if she wanted to still go before the board and she said no she does not. Bob said that we have accepted the retirement already. So we are affectively done.

Bob O'Keefe asked since we were already in executive session was it proper to give an update on issues that recently passed. The Town Manager said notwithstanding the rumor out and about that the case has been dropped by the two employees that have filed an age discrimination case against the town, him specifically. He had talked to MCAD directly and they said they had the paperwork and it was making its way through the system. But the Town Manager stated that he still has not received anything official and he is not free to say publicly that it has been dropped. He expects knowing MCAD they could take a month for the piece of paper but the case representative said that they do have the paperwork in hand.

The Town Manager said that with being in the exemption he stated that in regards to former Sergeant Geoffreys' MCAD age discrimination, he stated he did not tell MCAD that he was allowed to resign and stay on the books for six months of time that he has accumulated so that he could maximize his retirement benefit by getting to his birthday. He did not tell MCAD that he was allowed to do all of that because of his behavior and the actions that he took with his ex- girlfriend recording exists in evidence, but because he is a certain age that all happened. No sooner than the two water guys filed their claim Sergeant Geoffrey's attorney filed a letter amending the file MCAD saying we now have reason to believe Niles and Priest case numbers x & y have also at the hands of decision maker been treated in the same discriminative fashion therefore in accordance with case # such you have seen the letter that can be entered as defacto evidence.

Beth asked if it was still lingering on. The Town Manager said that it will probably go on for some time.

Jack moved to adjourn the executive session and return to the regular session. Keith seconded the motion. All were in favor of adjourning. Jack made a motion to adjourn the regular session. Beth seconded the motion. All voted in favor of the motion

The meeting ended at 8:45.

Respectively submitted

Margaret Giacobone, Administrative Assistant