

BOARD OF SELECTMEN MEETING
MONDAY, JUNE 10, 2019
5:00 PM AT WILBRAHAM POLICE DEPARTMENT, COMMUNITY ROOM
2780 BOSTON ROAD, WILBRAHAM, MA
MINUTES

PRESENT: Chair Susan C. Bunnell (presiding); Selectmen Robert W. Russell; Nick Breault - Town Administrator, Herta Dane - Human Resource Coordinator and Heather Kmelius - Administrative Assistant to the Board of Selectmen and Town Administrator. The meeting was called to order at 5:14 PM.

ALSO PRESENT: Labor Counsel Corey Higgins and Police Chief Robert Zollo.

NOT PRESENT: Selectmen Robert J. Boilard

PLEDGE OF ALLEGIANCE

Chair Bunnell asked all to join the Selectmen in saying the Pledge of Allegiance. She then announced, in accordance with Mass. General Law Chapter 30(A), section 20, that the Selectmen's meeting was being recorded by the Board of Selectmen's Office. Chair Bunnell asked if there was anyone present in the audience also recording the meeting. No one present in the audience was recording.

OPEN SESSION *(for topics not reasonably anticipated 48 hours in advance of meeting)*

Discussion: Administrative Policy for Hiring; Personnel Board Policy for Discipline; Authority and Responsibility of Boards and Commissions

Town Administrator (TA) Breault gave an overview of the purpose of this discussion with issues related to the Town's hiring policy and further stated that the Board needs to review the responsibilities and authority of Town Boards, Committees and Commissions. A legal review of the matter revealed that there could be a need for a Special Act of Legislature in order to remedy the discrepancies in order to properly define an appointing authority that synchs the Town's administrative policies and hiring policies with each other and with Mass General Law.

Attorney Higgins stated that the Town needs a clearly designated authority for the appointment and removal of employees and the Town's hiring practices do not fulfill that requirement. As the Town does not have a Charter, a Special Act of the Legislature represents the only avenue for resolution. Attorney Higgins noted that a similar Special Act was done for the Town's DPW Department designating the DPW Director as the appointing authority for that department.

The Parks & Rec Department has an issue for discussion which pertains to this issue. MGL Title VII, Chapter 45, Sections 2, 5 and 14 were discussed and defined. It was agreed that Section 14 is the section that governs Wilbraham's practices. Attorney Higgins read portions of Section 14 of the MGL aloud and discussed its applicability specific to the Parks & Rec Department as an example, noting that it fails to designate an appointment and removal authority. Attorney Higgins suggested that to clarify the imprecisely worded statue, the Town would need to request special legislation to delineate appointment authority.

TA Breault stated that the Town has an Administrative Policy in place, but without the statue in place, there could be questions about the process. Attorney Higgins confirmed that that Board and committees can make recommendations to the authorized authority, but cannot be the decision making authority. Chair Bunnell stated that TA Breault has great authority in his contract to execute employment oversight of the hiring related duties. Attorney Higgins agreed but stated that the authority must be defined and the current wording is insufficient. Attorney Higgins clarified that this potential issue is far more likely to develop in an employment removal situation.

TA Breault stated there is uncertainty as to other committees such as the Board of Assessors, Library Trustees, Planning Board, etc., that may have similar authority or responsibility and whether they would be willing to accept and exercise such empowered authority. Some authorities are spelled out in the Town By-Laws. TA Breault stated he is stymied when a Board/Committee is reluctant or unwilling to accept its authority and take necessary action when required.

Discussion ensued regarding clarification of the language. Discussion about how other towns without Charters manage such issues was started but no information was available. TA Breault stated that his experience with this issue in another town was not comparable and the practices were inconsistent. Attorney Higgins stated that a Special Act with the designation of a Board or individual as the appointing authority would resolve the issue with the Parks & Rec Department.

The constraints of the Open Meeting Law and other relevant process requirements are not imposed on an individual, as opposed to a Board or committee who may hold said authority. Attorney Higgins and the Board agreed that clarification is necessary. The Board agreed that the issue needs additional information and discussion for resolution and will take this under consideration.

Materials Referenced: Draft memo re: Hiring Policy from TA Breault to the Board dated 5.31.19. Email Correspondence from Labor Counsel Higgins with TA Breault and HR Coord. Dane dated 6.7.19. Copy of the General By-Laws of the Town of Wilbraham (2017). Copies of MGL Title VII, Chapter 45, Sections 2, 5 and 14. Copy of current Town Administrative Policies and Personnel Board Policies.

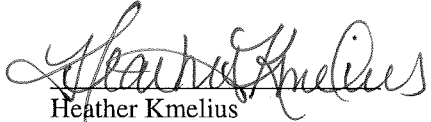
EXECUTIVE SESSION

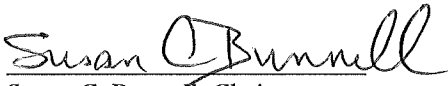

Chair Bunnell stated the following at 5:42 PM. As Chairman of the Board of Selectmen I hereby announce the Board of Selectmen will hold an executive session for the following purposes: Per M.G.L. c. 30A, § 21(a) (3) to discuss strategy with respect to collective bargaining--UPSEU Local 424M; and NEPBA Local 120; whereas discussion an open session may have a detrimental effect on the bargaining position of the Board of Selectmen, and as the Chairman I so declare; and that the Board of Selectmen shall reconvene in open session.

Selectmen Russell so moved to hold an executive session for the following purposes: Per M.G.L. c. 30A, § 21(a) (3) to discuss strategy with respect to collective bargaining--UPSEU Local 424M; and NEPBA Local 120; whereas discussion an open session may have a detrimental effect on the bargaining position of the Board of Selectmen, and the Chairman so declares and that the Board of Selectmen shall reconvene in open session. Roll call vote: (Chair Bunnell – yes, Selectmen Russell – yes).

Following the conclusion of the Executive Session, the Board reconvened in Open Session at 6:55 PM.

Having no further business, the Board of Selectmen adjourned at 6:55 PM.


Heather Kmelius
Administrative Assistant to the TA/BOS


Susan C. Bunnell, Chair

Robert W. Russell, Vice Chairman

Robert J. Boilard, Clerk