

Minutes of May 28, 2020
Warren Selectboard
5:00 PM
VIA Zoom
Unapproved

Members Present: Andrew Cunningham, Chair, Randy Graves, Luke Youmell & Camilla Behn.

Members Absent: Bob Ackland

Others Present: Richard Cassidy, Karen Stackpole, Dayna Lisaius, Lisa Loomis (VR), Tony (TV 44/145), Cindi Jones and members of the public listening on the phone.

5:00PM – Grievance Hearing Regarding Appeal of Raemon Weston, per Town of Warren Personnel Policy Sections X and IX (in public session by request of Mr. Weston).

5:01 PM – Mr. Cunningham, Chair called the meeting to order.

Mr. Cunningham stated that the Selectboard terminate Mr. Weston April 24 in an executive session, offer Mr. Weston the opportunity to resign with a severance or be terminated. Mr. Weston chose not to resign and, in the April 28th, meeting confirmed and ratified in open session to end Mr. Weston's employment April 27, 2020. Mr. Weston has requested this hearing per the town policy. This Hearing in open session and Mr. Weston is represented by Mr. Cassidy. Mr. Cunningham stated that Mr. Ackland has been requested to recuse from this meeting and not be part of any deliberations per counsel's request.

5:02 PM – Mr. Cassidy (Mr. Weston's Attorney) started out the discussion that on 4/24/2020 in Selectboard Executive Session the board voted resignation w/severance or termination with a decision made in executive session and on 4/28 they confirmed ratification on April 28, 2020. (violation of Public Policy open meeting law) He commented that the Selectboard violated the public open meeting law and the decision was not ratified in the April 28 meeting.

Issues that were brought up by Mr. Cassidy:

Mr. Cassidy explained that though Mr. Ackland has been recused because of circumstances resulting whether Mr. Weston Should have been terminated from employment as explained to counsel of the town.

In June of last year Mr. Ackland asked Mr. Weston to use the Town's hydro seeder and materials to hydroseed his property. Mr. Weston refused Mr. Ackland modified his request and offered to pay Mr. Weston for his time but use the Town's equipment and materials. Mr. Cassidy thinks this is a motivating factor as violation by virtue of one member. Mr. Cassidy requests to have the Warren Selectboard overturn the termination decision.

The board did not effectively terminate Mr. Weston as the decision was made in executive session which was a direct violation of the public open meeting law. Mr. Cassidy stated that the Town is obligated to pay for wages earned up to this time.

Mr. Weston was not properly paid for over time earned the week of June 24th. Ms. Lisaius confirmed with Mr. Ackland about the OT and was told to pay only the 2 hours on Sunday because of a decision that Wednesday to send the highway crew home and Mr. Ackland commented "take one for team". Mr. Weston worked overtime on that Monday and Tuesday due to freezing rain and was not paid for it. Mr. Weston is entitled to the OT not paid as the Town is obligated to pay OT wages earned for that week. Mr. Cassidy stated that it is not proper for any employer to not pay overtime that is earned.

Mr. Weston was not paid for 76 hours of vacation that he had earned the following year as carry over because he could not take it due to an early winter. He was paid for 120 hours per policy of vacation time but was not paid for those 76 hours last year.

Mr. Cassidy commented that the Selectboard does not follow their town policies fairly or consistently with all employees. Cited below are 2 incidents:

1. In October 2019 – Mr. Chris Kathan asked for a raise. The board told Mr. Weston that Mr. Kathan needed to fill out forms on why he deserved a raise. Mr. Kathan blew up at and at Mr. Weston when he was following protocols and Mr. Weston was afraid that Mr. Kathan would become violent. Mr. Kathan stormed out. Mr. Weston reported it to the board that he was afraid of what Mr. Kathan might do. Nothing was done for the safety of Mr. Weston or the crew.

2. On March 16, Mr. Weston gave the crew their tasks for the day. Again Mr. Kathan blew up, screaming and in front of the crew using profanity language calling Mr. Weston stupid and ignorant. Mr. Kathan stormed out saying he was done giving two weeks. Mr. Weston followed protocols and wrote Mr. Kathan up a per policy for insubordination and leaving early without permission. It was sent to the board. That Monday, Mr. Kathan filed a grievance against Mr. Weston for retaliation. In Minutes of the April 28th meeting, Mr. Kathan was reprimanded and allowed to withdraw his resignation and come back to work and Mr. Weston terminated. Mr. Kathan was reprimanded and Mr. Weston was terminated showing that the town does not follow their employment policies fairly and are inconsistent with employees.

The Selectboard was in violation of the Governors Stay at Home, Stay Home order - The office employees were all told to close and work remotely. Mr. Weston had sent an email to the board in regard to this saying that the highway employees were sheep and that they were not concerned with their health. The Town leadership took offense to this knowing that Mr. Weston has health issues. The Town violated the Governors Stay Safe, Stay At home order and violated the Fair Employee Labor and Disabilities Act as Mr. Weston has a known medical condition.

Mr. Weston commented that the letter dated June 25, 2020 that he was terminated for, he had met every one of those items in the letter as requested by the board.

Mr. Cassidy requested that the board reconsider their decision to reinstate Mr. Weston and pay all backpay that is owed. Ms. Stackpole, lawyer for the Town, asked if there were any more documents or evidence that they were presenting.

Mr. Cassidy commented that he could print off the Governors Stay Safe, Stay at Home order but it is all on line, all minutes are on line and he could print out the Fair Labor and Disability Act but Ms. Stackpole can retrieve on line as well. Some of the items presented are not town policy but some are state law. In the town policy it states that all decision is final from the Select board, however, Mr. Cassidy stated that is not the case as per state law.

Mr. Cunningham, Chair, asked if there was anymore presentation from Mr. Cassidy. Mr. Cassidy commented that they were finished and if they had more questions, he would be available. Ms. Stackpole commented that a decision per town policy would be rendered in 7 days.

5:45 PM – Motion by Mr. Cunningham, to go into executive deliberations with Town Lawyer, Karen Stackpole, second by Mr. Youmell. All in Favor: VOTE: 4-0.

6:32 PM – Motion to come out of Executive Session by Mr. Youmell, second by Ms. Behn. All in Favor: VOTE: 4-0.

Action Taken: The Town's counsel will write up a decision to be delivered within 7 days per policy.

6:33 PM – Motion by Mr. Graves to adjourn, second by Mr. Youmell. All in Favor: VOTE: 4-0.

Minutes by Cindi Jones,
Warren Town Administrator

Executive session motions taken by Mr. Cunningham.

The Warren Selectboard

Andrew Cunningham, Chair

Luke Youmell

Randy Graves

Camilla Behn

Bob Ackland