

Approved 5/4/2020

Town of Chelmsford
Board of Selectmen Minutes
50 Billerica Road, Room 204
Chelmsford, MA 01824

January 20, 2020

Attending:

Pat Wojtas, Vice Chairman
Emily Antul, Clerk
George Dixon, Selectman
Virginia Crocker Timmins, Selectman

Paul Cohen, Town Manager
Michael McCall, Assistant Town Manager
Brian Harrington, Special Labor Counsel

Absent:

Kenneth Lefebvre, Chairman (due to potential conflict)

Selectman Wojtas called the meeting to order at 10:00AM.

Motion: by Selectman Antul to adjourn to Executive Session for the purpose of discussing a report by Special Labor Counsel regarding allegations related to the Joint Labor Management Committee arbitration process for the Police Superior Officers (Sergeants) union, not to return to open session. Seconded by Selectman Dixon.

Roll Call Vote:

Selectman Dixon: Aye
Selectman Antul: Aye
Selectman Wojtas: Aye
Selectman Timmins: Aye

Motion carries, unanimous, 4-0.

Respectfully submitted,

Pat Wojtas
Board of Selectmen

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2020-05-05
2:52 PM
TOWN OF CHELMSFORD
PATRICIA E. DZURIS
TOWN CLERK

Board of Selectmen
January 20, 2020

2020-09-29

2:41 PM

TOWN OF CHELMSFORD

PATRICIA E. DZURIS

TOWN CLERK

Approved & Held 5/4/2020

Released 9/28/2020

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Board of Selectmen Meeting Minutes
50 Billerica Road, Room 204
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January 20, 2020
Executive Session

Attending:

Pat Wojtas, Vice Chairman
Emily Antul, Clerk
George Dixon, Selectman
Virginia Crocker Timmins, Selectman

Paul Cohen, Town Manager
Michael McCall, Asst. Town Manager
Brian Harrington, Special Labor Counsel

Absent:

Kenneth Lefebvre, Chairman (due to potential conflict)

The purpose of this Executive Session was for Attorney Harrington to present his report regarding allegations made against the Town related to the Joint Labor Management Committee arbitration process for the Police Superior Officers (Sergeants) union.

Mr. Harrington chose to present most of his report orally, dealing with three major topics.

Conduct between the Joint Labor Management Commission (JLMC) arbitration hearing and the issuance of the award

The union alleged impropriety of communications between the management representative on the JLMC panel (Andrew Flanagan), and Town officials, specifically Town Labor Counsel Marc Terry and the Town Manager. Mr. Harrington noted that there is no JLMC settled practice governing that type of communication. In his opinion, emails from Mr. Flanagan should not have been released; however, he sees no liability by the Town, as there was no apparent ill intent.

Mr. Harrington clarified the meaning of the "probable cause" statement by the JLMC. Probable cause means that if everything the charging party states is true, they could win their case.

Selectman Dixon asked Mr. Harrington for an opinion about the letter from MIIA Property and Casualty Group to the town stating that there is no coverage available to the town for the allegations made in the plaintiff's Demand. Mr. Harrington had not seen the letter prior to this meeting and took a quick review of it during the meeting. He stated that he is not very familiar with insurance law, but was of the opinion that it is the insurance company's call.

The Department of Labor Relations (DLR) will conduct a hearing in February to rule on the union's allegations. Questions were asked about the mediator assigned to the hearing. Mr. Harrington is familiar with her, and stated that she is fair, and we should expect a carefully considered ruling from her.

Agreement of summer, 2016

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The agreement between the union and the Town in the summer of 2016 was titled 'Memorandum of Agreement', and the Board clarified for Mr. Harrington during this meeting that the MOA was signed by Mr. Cohen. Mr. Cohen had presented it to the Board of Selectmen that was in office at that time, and that Board rejected the agreement. It was noted that the agreement included the phrase 'off the record', which was understood to mean that it was not binding until both the full union membership, and the Board of Selectmen, approved it.

In Mr. Harrington's conversation with union representatives, they indicated that they were confident that the Board of Selectmen would endorse the agreement, based their belief that Mr. Cohen would urge approval by the Board.

Mr. Harrington believes that the JLMC arbitrators later based their award on the Memorandum, given that the vote by the Board of Selectmen was 3-2 against. He stated that it is unusual for the JLMC to not come out of arbitration with something close to a rejected MOU, but that changing some of the terms of the negotiation with focus on wage increases could have complicated the arbitration further.

February 4, 2019 Town Meeting

During the Special Town Meeting of February 4, 2019, the arbitration award was considered. Mr. Harrington was concerned with the arguments made by the Chairman of the Finance Committee, who stated that approving this award would affect all future union negotiations and awards. Mr. Harrington noted that, although the Finance Committee Chairman is an attorney, he has no experience in dealing with the JLMC.

Mr. Harrington stated that Town Meeting Members should have had all the documents related to the arbitration award, not just the dissenting opinion, which a member of the Finance Committee passed out to the representatives.

Other discussion

Mr. Cohen stated that he has informed that union that the Town is willing to continue negotiations on this contract, as well as the next contract, but the union has refused to meet.

There were questions about the possible outcomes of the DLR hearing. Mr. Harrington said the mediator could dismiss the case, return it to the JLMC, or find violations, and order that the award be resubmitted to Town Meeting for another vote. However, acceptance of the award cannot be forced.

Mr. Harrington expects that whatever decision is reached by the DLR mediator, it will be appealed to the Commonwealth Employee Relations Board, and possibly the State Appeals Court.

Motion: by Selectman Timmins to adjourn the Executive Session meeting at 11:25AM.

Seconded by Selectman Dixon. Roll Call Vote:

Selectman Dixon: Aye

Selectman Antul: Aye

Selectman Wojtas: Aye

Selectman Timmins: Aye

Motion carries, unanimous, 4-0.

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Released 9/28/2020

Respectfully submitted,

Pat Wojtas
Board of Selectmen

Supporting document:
Framework for discussion dated January 20, 2020

Board of Selectmen
January 20, 2020