



Board of Selectmen

Ware Junior/Senior High School Auditorium, 237 West Street, Ware, MA
Regular Meeting Minutes – Monday, November 4, 2019 at 6:30 p.m.

Due Process Hearing for Contemplated Action of Discipline, Up to Termination: Fire Chief Thomas Coulombe, Per M.G.L. Chapter 31, Section 41.

Present: Selectman Alan G. Whitney, Selectman John E. Carroll, Selectman Keith J. Kruckas, Selectman Tracy R. Opalinski, Town Manager Stuart Beckley, Town Labor Attorney Layla Taylor, Fire Chief Thomas Coulombe, Attorney Jack Collins

Absent from Selectman's table, present in the audience: Selectman Nancy J. Talbot (previously recused).

Chairman Whitney stated the following:

Good evening, it's the Board of Selectmen meeting of November 4, 2019, and we are going to open our meeting at 6:30 p.m. The meeting is being audio and video recorded. Please join me for the Pledge of Allegiance.

The first item on our agenda tonight is for the Board of Selectmen to consider the discipline of Fire Chief Thomas Coulombe, up to and including possible termination of employment.

Although the Board of Selectmen would have held this meeting in executive session under exception #1, Chief Coulombe requested in writing that this meeting be open. That is his right. Nevertheless, even though this is an open meeting, given the sensitive personnel nature of the topics under discussion, I am announcing some ground rules for the conduct of tonight's meeting. Also, I believe that Selectman Tracy Opalinski wanted to address the meeting.

Selectman Tracy R. Opalinski read a statement regarding her recusal from the meeting:
Six business days prior to today's hearing, Fire Chief Thomas Coulombe, the subject of today's hearing...filed a complaint at the Massachusetts Commission Against Discrimination against the Town of Ware's Fire Dept. and specifically named me in the complaint. It is a public record. On the advice of legal council and in order to prevent "even" the "illusion" of any impropriety in today's hearing'sas it relates to discussions, deliberations or decisions, I am recusing myself from this Town of Ware discipline hearing.

Chairman Whitney read the ground rules of the hearing:

1. The public is permitted to attend this meeting as long as the Chief continues to desire to have this meeting in open meeting. Should he, at any time, desire executive session we will close this meeting and reconvene in the posted executive session. The public will not be allowed in any executive session.
2. The public is permitted to attend this open meeting; however, no individual may address the Board of Selectmen without the permission of me, the Chair.

3. An individual may not disrupt the Board of Selectmen meeting, and at the Chair's request, all members of the public shall be silent.
4. If, after clear warning, a person continues to be disruptive, the Chair may order the person to leave the meeting.
5. If the person does not leave, the Chair may authorize a constable or other officer to remove the person.
6. Given the nature of this matter, I, as Chair, have made the decision not to allow for public comment. While we understand that public participation is encouraged by the State, it is not required at all meetings.
7. Any member of the public may make an audio or video recording of an open session of a public meeting. However, any member of the public who wishes to record a meeting must first notify the Chair and must comply with reasonable requirements regarding audio or video equipment so as not to interfere with this meeting. If you have arrived and wish to record this meeting, although it is being videotaped by Ware TV, please pass a note to the Town Manager in a manner that does not disrupt this meeting and I, as Chair, will endeavor to acknowledge such attempts at notification and announce the fact of any recording to those in attendance.
8. This is a hearing pursuant to MGL c. 31, s. 41, the Civil Service Law governing the Discharge; removal; suspension; transfer; abolition of office; reduction of rank or pay; hearings; review of a covered civil service employee.
9. The purpose of this meeting is to give Chief Coulombe notice and an opportunity to hear from the Board of Selectmen about the allegations against him, answer questions from the Board of Selectmen and to provide the Board of Selectmen any information he thinks is important for them to have and/or consider before rendering a determination.
10. The Chief shall be allowed to answer, personally or by his counsel, any of the charges which have been made against him. However, the Chief and others on his behalf are not entitled to cross examine the Board of Selectmen. This is a due process hearing before the appointing authority under the Civil Service law, it is not a trial.

Chairman Whitney commenced the hearing.

Attorney Collins, representing Fire Chief Coulombe, stated that Selectman Kruckas should recuse himself from the hearing due to his clear bias and animosity for over 8 months, and his own personal gain from the outcome. Attorney Taylor, representing the Town of Ware, asked Mr. Collins to elaborate on the conflict of interest. Attorney Collins stated that Selectman Kruckas had financial interests in the outcome of this hearing.

Chairman Whitney read the Notice of Hearing for Contemplated Action of Discipline, Up to Termination of Employment, Dated October 30, 2019 (attached).

Attorney Collins noted there are no witnesses for these allegations. Attorney Taylor noted this is a pre-termination hearing with notice and opportunity to respond, a De Novo review before civil service should there be adverse determination. Attorney Collins stated there should be a full hearing as in recent case law of Town of North Reading, with adequate notice of charges and right to cross-examine witnesses. These are only allegations with no evidence.

Chairman Whitney began to address each item. Attorney Collins noted that Fire Department documents and rules and regulations were not in effect as the documents were never presented to the union, and therefore have no effect or application here. He further stated the document was not properly promulgated, and not enforceable. Attorney Collins continued to defend Fire Chief Coulombe and stated his conduct was above all standards set forth by ethics. He accused Selectmen of having already made their decision. Chairman Whitney stated he resented "you saying that I've made up my mind". Attorney Collins noted that when issues arose, Chief Coulombe would consult Town Counsel Wojcik to be sure to follow all rules. Attorney Collins questioned the amount of money spent to date on this issue. Town Manager Beckley noted that \$30,000 had been spent to end of September 2019.

Fire Chief Coulombe noted that he does "inspire confidence of the public" and described the civil service hiring process. He stated that he consulted Attorney Wojcik regarding his role in the process. He noted the union was not presented a code of ethics under the previous Fire Chief. He stated that he should be allowed to provide witnesses, and this process was insulting. He noted that it was his and his wife's work that obtained the \$5 million Federal grant and \$1 million State grant to build the Fire Station. Fire Chief Coulombe noted air packs, ladder testing, safety equipment testing, and other items that have been in budgets or applied for grants to keep current.

Chairman Whitney noted that the Chief was told not to go to the fire station while on paid administrative leave. He noted that the Chief has threatened litigation and spoken several times to media. He noted these actions were insubordination.

Break – fifteen minutes total

Attorney Collins questioned the charge of conduct unbecoming. He noted that Selectman Kruckas has made this a personal situation numerous times. Fire Chief Coulombe defended his request to go to the fire station to collect his personal items, and Police Chief Crevier accompanied him. He stated that Selectman Kruckas arrived and yelled at him. He noted that Selectman Kruckas previously harassed other town and DPW employees, this is workplace harassment, and the Selectman has harassed Chief Coulombe's family.

Selectman Kruckas stated these are not accurate descriptions of the events. Attorney Collins noted that the Selectman "makes things up". Fire Chief Coulombe noted that he checked with Town Manager Beckley before any of his actions regarding going to the fire station. Attorney Collins noted Conflict of Interest Law and no one on the Board of Selectmen have questioned the Chief before, but there are concerns about the Deputy Chief going back two years that should have resulted in discipline of the Deputy Chief. Fire Chief Coulombe explained an incident involving a brush fire on West Street in which the Deputy Chief was disruptive and yelling at Captain and crew as they worked the brush fire. Chief Coulombe noted that he gave coaching and gave a pass to the Deputy Chief who should have disciplined.

Attorney Collins disputed this hearing and stated that two Selectmen have told the Fire Chief to retire. Attorney Collins stated "Shame on you." He stated that the investigation and Daigle Law Firm report were untruthful and there is a "cancer" on the Board of Selectmen. He stated that the charges tonight have all been answered.

Attorney Taylor noted that the Board may take time for deliberations or take under advisement. If the decision is adverse, the Board must send a written decision with three days' notice to the Chief and his counsel. Attorney Taylor noted the hearing could remain open, but be tabled.

Attorney Collins questioned how soon the Board would reconvene on this matter.

Chairman Whitney noted the hearing would remain open, and stated the Board will reconvene no longer than two weeks. Selectman Kruckas made the motion to table and to not close the hearing; Selectman Carroll seconded the motion. The motion passed on a vote of 3 Yes, 0 No.

Selectman Carroll made the motion to adjourn the meeting at 9:30 p.m. Selectman Kruckas seconded the motion. The motion passed on a vote of 3 Yes, 0 No.

Attest: Mary L. Midura
Mary L. Midura, Executive Assistant to
Town Manager



TOWN OF WARE, MASSACHUSETTS

Town Manager
126 Main Street
Ware, MA 01082
Tel. 413-967-9648

October 30, 2019

Chief Thomas Coulombe
116 Church Street
Ware, MA 01082

Re: Notice of Hearing for Contemplated Action of Discipline,
Up to Termination of Employment

Dear Fire Chief Coulombe:

You are hereby advised, pursuant to your contract and Massachusetts General Laws Chapter 31, Section 41 that a hearing will be held by the Board of Selectmen, your Appointing Authority, on the question of whether there is just cause for disciplinary action, up to and including the possible demotion or termination of your employment as Fire Chief, for the following reasons:

- Failure to comply with the Fire Department's Code of Ethics/Canons of Fire Ethics Policy as explained and outlined in the attached Exhibit A *Administrative Investigation of Fire Lieutenant Brian Coulombe and Chief Thomas Coulombe.*^{III} See Exhibit A and document number 1 and 2 of Exhibit E.
- Failure to attend to your job duties as Fire Chief, including but not limited to the following:
 - Failure to put Town on notice of need to follow NFPA standards, including but not limited to NFPA 1500 (health and safety mandates for physical testing); and,

^{III} Please note that because, as Fire Chief, you are the Appointing Authority for the Town of Ware's Fire Department, the Town has provided you and your counsel a full unredacted copy of the Administrative Investigative Report and other personnel records of Fire Department personnel that are germane to the issues for which you have been provided Notice. However, at the hearing only redacted versions will be used. This is primarily to protect the findings of the Investigator with respect to another employee in the Department (your son) and the personnel information of other employees in the Department (your son and wife) to the extent that this matter implicates any legitimate privacy interests they may have. Although you have requested an open meeting, please be advised that this meeting is about whether you have engaged in misconduct. The Appointing Authority, you as an agent of the Town continue to have a responsibility to be mindful of their privacy interests as employees.

- Failure to ensure that equipment and facility were properly maintained and/or to place Town on notice of maintenance needs, including but not limited to: (a) fire safety equipment such as SCBA air fill station, air compressor, air packs and air bottles, hose testing and ladder testing; (b) building issues including water damage at front entrance and from boiler overflowing, a/c unit failure due to lack of service, and failure to ensure proper maintenance of elevator.

See Exhibit A, Transcript of Thomas Coulombe Interview and Exhibit B.

- Insubordination. Specifically, the failure to abide by the requirements of your paid administrative leave by going to the Fire Station without permission after being placed on leave. See Exhibit A, Transcript of Thomas Coulombe Interview and Exhibit C; and,
- Conduct unbecoming to a Fire Chief, including but not limited to lack of truthfulness and candor to the public and during a workplace investigation and violation of the obligations set forth in the *Code of Ethics/Canons of Fire Ethics Policy* for same, including but not limited to:
 - Your reporting to the press that you did not threaten litigation against the Town when, in fact, you had done so through your Attorney; and,
 - Your false reporting during the workplace investigation that the morning after you were placed on a paid administrative leave that you went to the Fire Department with the Police Chief to arrange for the pickup of your things and that Selectman Kruckas impermissibly confronted you, including your allegation that "Selectman Kruckas had his meltdown, and started yelling at us about being there, and it turned into a shit show, and we never did a... We both just left."

See Exhibit A, Transcript of Thomas Coulombe Interview and Exhibit D.

- Violations of the *Fire Department's Code of Ethics/Canons of Fire Ethics* and prohibitions on nepotism outlined in M.G.L c. 268, the conflict of interest laws, by failing to ensure proper procedural protocols consistent with State Ethics Commission advisories were in place regarding the day to day active supervision of your son and wife, who are both subordinate members of the Department, and failing to hold them to the same standards as others in the Department. On this last matter the Board may also discuss whether your continued role as Fire Chief presents an untenable conflict of interests that impacts your ability to continue in that role.

See Exhibit E.

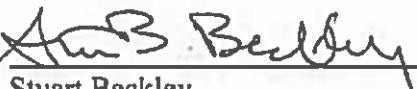
Exhibit F contains additional relevant law and Fire Department policies.

The hearing on this matter will be held by the Board of Selectmen at Ware High School Auditorium, 237 West Street, Ware, MA on November 4, 2019 at 6:30 p.m. You have a right to be present for the meeting and for any deliberations that involve you. You will also have a right to answer, personally or by counsel, any of the charges which have been made against you.

Also enclosed are copies of Massachusetts General Laws Chapter 31, Sections 41 through 45, as required by Massachusetts General Laws Chapter 31, Section 41, as well as information relative to that meeting.

Please also be advised that following confirmation from your Attorney, Jack Collins, to the Town's Labor Counsel, Layla Taylor, scheduling the date for this hearing, that you wrote to me, Stuart Beckley, requesting that this meeting be held in open session. While we have scheduled a venue to accommodate this request as is your right, should you decide you would like to have this meeting in executive session at any time you may do so. If it is held in executive session, please note that in addition to the rights set forth above you also have the right to cause an independent record to be created of said executive session by audio-recording or transcription, at your own expense. In open session, please know that an independent record will be created by video-recording as per the Town's practice.

Sincerely,



Stuart Beckley,
Town Manager

Enclosures: Exhibits A through F
M.G.L. c. 31, §§ 41-45

cc: Layla G. Taylor, Esq., Town's Labor Counsel
Jack Collins, Attorney for Fire Chief Coulombe.
Town of Ware Board of Selectmen