



Wellfleet Board of Selectmen
Minutes of the Executive Session of September 26, 2017
Wellfleet Senior Center
(Minutes approved and released 10/24/17)

Present: Janet Reinhart, Vice Chair; Kathleen Bacon, Clerk; Jen-y Houk, Helen Miranda Wilson; TA Dan Hoort, ATA Brian Carlson, Executive Assistant Michaela Miteva;

Regrets: Dennis Murphy, Chairman

Purpose: Vice-Chairman Janet Reinhart, acting as a Chair of the Board in the absence of Dennis Murphy, had stated the purpose of the executive session in open session: Pursuant to G.L. c. 30A, Section (a)(3), to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares:

1. To discuss and decide on the Wellfleet Communications Union grievance for a health insurance stipend denial to Eileen McCarthy.

Reinhart called the executive session to order 6:35 pm.

1. To discuss and decide on the Wellfleet Communications Union Grievance for a health insurance stipend denial to Eileen McCarthy.

Hoort said that this is continued from the September 12, 2017 meeting. He had the response of KP Law about the question whether a past mistake would set a precedent. According to Town Counsel this past mistake would not set a precedent. He explained the two options – 1. To uphold the decision of the Town Administrator or 2. To pay the 2017 health insurance stipend contingent on the Communications Union changing the union contract so as to prevent this in the future

Wilson said that she had now read the article 19 of the Communications Union contract. Dan Hoort had confirmed with the previous Town Administrator that this had never previously been discussed the Union. McCarthy, as an employee of the Town, has taken advantage of the Town's health insurance plan through her husband, therefore she is not eligible for a health insurance stipend. McCarthy had been paid a health insurance stipend over the last three years by mistake in the amount of \$10,309. Wilson proposed that the Town and McCarthy meet halfway: The Town would not ask to be reimbursed for the health insurance stipend paid over the three years by mistake and not grant McCarthy's request as presented.

Houk said that he was under the impression that the Board was going to grant the stipend for 2017 with the contingency to change the contract. Bacon agreed with Houk. Reinhart confirmed with Houk and Bacon that they agree to pay the stipend for 2017, but Wilson had a different opinion. She said that she would not contest the previously paid stipend, but would not be willing to pay any stipend for 2017. Per Wilson, there would be no need to change the language of the contract, because it is clear the way it is written now. Reinhart felt that the contract is also clearly written, and did not understand the basis for the request. The attorney was not present and Eileen McCarthy and Ilene Davis could not explain the arguments made by him during the last executive session meeting on September 12, 2017. Houk said that the current contract

is not clear and he believed that the stipend should be paid. Davis said that the contract changes will be presented to the Communications Union to make things clearer in the future if this matter ever came back.

Bacon said that Morgan had made a very clear argument and stated that Eileen McCarthy has been an excellent employee and she is owed this stipend because the contract states it. Bacon was of the opinion that Eileen McCarthy has acted in good faith believing that this stipend is something she is entitled to. Reinhart said that this matter does not take a consideration McCarthy's character.

MOTION: Reinhart moved and Houk seconded to pay the 2017 Health Insurance stipend to Eileen McCarthy contingent upon modifying the language of the Communications Union contract.

Wilson said that at the end of last meeting no vote was taken and everyone agreed to read the contract and wait for the opinion of Town Counsel. Once she read the contract it was clear as a bell that McCarthy was fully insured through her husband's town insurance and the health insurance stipend was paid by a mistake.

The motion passed by a roll call vote:

Bacon Aye,
Reinhart Aye
Houk Aye
Wilson Nay

Hoort will work with Attorney Morgan to change the Communications Union language and the health insurance stipend for 2017 will be paid.

Adjournment

MOTION: Reinhart moved and Wilson seconded to adjourn the executive session at 6:49 pm and reconvene for the public meeting at 7 pm. The motion passed by a roll call vote:

Bacon Aye,
Reinhart Aye
Houk Aye
Wilson Aye

Respectfully submitted,

Michaela Miteva
Executive Assistant

Executive Session Records Documents:

1. Email from KP Law on Personnel Opinion re past mistakes do not establish precedents.