

TOWN OF PAYSON PERSONNEL BOARD
MINUTES OF THE JANUARY 10, 2007 MEETING

CALL TO ORDER: 10:28 a.m. in the Town Hall Council Chambers, 303 North Beeline Highway, Payson, Arizona

PLEDGE OF ALLEGIANCE

ROLL CALL: Bill Lawson, Al Poskanzer

ABSENT: Kenneth McKeone

STAFF PRESENT: Samuel I. Streichman, Town Attorney; Silvia Smith, Town Clerk

OTHERS PRESENT: Diane Stoyer, Legal Department Office Manager; Tomi Huddleston, Human Resources Technician; Marci Huffman, Chief Deputy Town Clerk

PURPOSE OF MEETING:

As follows.

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| <p>A Selection of a Chair. Mr. Poskanzer declined and Mr. Lawson was named chairman for this particular hearing by consensus.</p> | <p>Bill Lawson
Selected Chair</p> |
| <p>B Presentation re: Town of Payson employee appeal process.</p> <p>Town Attorney Streichman explained that there had been a disciplinary action taken by the Police Department. The employee appealed to the Town Manager who upheld the disciplinary action. The employee, Mr. Christopher Harold has appealed to the Personnel Board through his attorney, Mr. Martin A. Bihn. The hearing is scheduled for January 18, 2006. The Town has engaged the Grasso Law Firm and Kim S. Alvarado to present the case on behalf of the Town. The Legal Department will advise the Personnel Board.</p> <p>Mr. Bihn has requested a hearing in writing and within 10 to 30 days after the request a hearing must be held. January 18th is the 30th day.</p> <p>Mr. Streichman then explained the hearing process. The employee states his case first, and the Town will respond. There then may be rebuttals. Cross-examination is allowed and will probably happen as each witness testifies. The process will be informal.</p> <p>Mr. Streichman stated that it is appropriate for the Board to ask questions.</p> | <p>Appeal Process</p> <p>Background</p> <p>Response Time</p> <p>Cont'd</p> <p>Cont'd</p> |

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Mr. Streichman said that background information would be forthcoming. He admonished the Board not to seek background information on their own. The Board can decide how they want to ask questions, whether through the chairman or each board member.

Background
Information

After the Board has heard all the evidence and the hearing is closed, they will have 10 days to make written findings and recommendation to the Town Council. If any Board member disagrees with the collective decision, that person can write a minority report.

Findings

Even though the Town's rules say the hearing has to be closed unless the employee requests that it be open, this cannot happen because of the Open Meeting Law. The Personnel Board is a Town board and must abide by the Open Meeting Law.

Open Meeting

When the Board deliberates, that can be done in executive session. The employee must be given 24-hour notice to give him time to say whether or not he wants an open meeting.

Executive
Session

C Procedural matters in connection with the hearing of the appeal of Christopher Harold scheduled for January 18, 2007, including:

1. Time format and scheduling of presentations by appellant and Town.

2. Possible issuance of subpoenas/consideration of requests for subpoenas.

There was discussion concerning the dates and times that Board members could be present. By consensus the Board will begin the hearing at 8:30 a.m. on January 18, 2007. The employee will have 15 minutes for an opening statement. The Town's representative will have 15 minutes for an opening statement. The employee will have from 9:00 a.m. until noon to present his case. Lunch will be from 12:00 noon to 1:00 p.m. Lunch will be brought in for the Board members. The Town will then present its case from 1:00 p.m. to 4:00 p.m. Closing statements will be made from 4:00 p.m. to 4:30 p.m., 15 minutes each. Rebuttals will be squeezed in.

Time Schedule
for Hearing

The Board wanted to give everybody enough time, but within a good time frame. Time will be allowed for cross-examinations,

Good Time
Frame

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but these must be succinct to expedite the matter. There was Board consensus regarding the schedule as long as there is flexibility.

Regarding subpoenas, Mr. Streichman said the Town rules have no provision for subpoena of witnesses. He has advised the attorneys that town employees will be available. He was advised that Ms. Alvarado and Mr. Bihn are working together to get a joint list of witnesses and exhibits that is agreed upon. He then read the state law regarding subpoenas. Because the Town does not have public officer but a board, it will be up to the Board to determine whether subpoenas are issued. If they are issued, it will be up to the parties to get them served. If the Board chooses to do that, then the chairman or the clerk will be authorized to sign them. Mr. Streichman recommended that so long as it is not overbearing the Board might consider taking on the authority to issue under state statute. Later in the meeting six subpoenas were received. Consensus was to authorize the issuance of subpoenas.

Subpoenas

Consensus was that assuming the hearing is completed on the 18th, the day to reconvene for deliberation would be the evening of the 25th. The Town attorneys will then help the board get their recommendations in writing on the 26th. There was then discussion regarding holding deliberations in the conference room on the 18th if the hearing is completed and an executive session is held. If the Board agreed, the Town attorneys will contact the lawyers and see if there is any objection to them deliberating after the hearing in executive session and getting it done that night. This will necessitate coming out of deliberation and taking action in the chambers. Mr. Streichman said they may want to do a written recommendation.

More
Discussion Re
Deliberation
Date

D Presentation re: The Arizona Open Meeting Law

Open Meeting
Law

Mr. Streichman then explained the Open Meeting Law in more detail. With a 3-member board, if any two members talk outside an open meeting dealing with this issue, it is a violation. He advised that the only person to talk to would be oneself. One member may talk to another as long as it does not involve this work, because it is begun. The Town will take care of noticing and posting of the meetings. The Council Chambers are being used because the facility has the ability to record all of the proceedings. There will be tapes and CD's of the hearing. He said it would not be a good idea for Board members to talk to each

Open Meeting
Law

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other or email each other until after the deliberations. If the Board goes to executive session, then a member will need to make a motion to go into executive session citing the appropriate provision. This will be listed on the agenda also.

The Town will also take care of the minutes of the hearing, and the Board will need to approve the minutes after they are prepared, which will necessitate another short meeting. Minutes

The Board is not permitted to make a decision in executive session. No Decision in Executive

There was brief discussion regarding the materials and the desire of the Board to receive background materials. Brief Discussion

E ADJOURNMENT

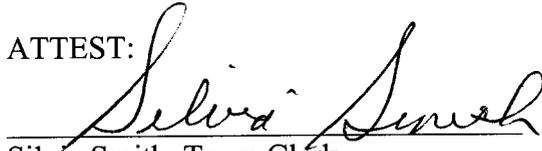
Mr. Poskanzer moved to adjourn the meeting, and Mr. Lawson seconded. Motion carried, 2-0. The meeting adjourned at 11:38 a.m. Adjournment

Approved By:



William Lawson, Chairman

ATTEST:



Silvia Smith, Town Clerk

Certification

I hereby certify that the foregoing minutes are a true and correct summary of the January 10th, 2007, Personnel Board meeting. I further certify that the meeting was duly posted and that a quorum of the Personnel Board was present.

DATED this 22nd day of January, 2007


Marcia F. Huffman, Chief Deputy Town Clerk