

Brookline, MA, Board of Selectmen

Press release, received December 19, 2014

On November 24, 2014, the Board of Selectmen received a letter from firefighter Gerald Alston seeking the reversal of a number of determinations that have been made in connection with his work, beginning with a finding that was made by the town after its investigation of a race-based incident that Mr. Alston reported in July 2010. Mr. Alston's letter makes it clear that in his view, the town has not adequately addressed his concerns. The board takes Mr. Alston's comments to heart and commits to undertaking a review of the various matters he has raised, as outlined below. However, because certain information that has been circulated publicly misrepresents both the facts and Mr. Alston's work status, the board also takes this opportunity to clarify the record. At the outset, the board wishes to assure the public of its profound and deep commitment to creating and fostering a workplace that is inclusive and free of discrimination or harassment, and its deep sorrow that the incident reported by Mr. Alston more than four years ago continues to cause pain. The board sincerely hopes that Mr. Alston will work with the town in a collaborative effort to heal from this.

As the town has previously acknowledged, in July 2010, an off-duty supervisor in the Fire Department left a particularly egregious comment on Mr. Alston's voicemail while reportedly calling him to see how he was doing after a workplace injury. Although the supervisor stated later that the comment was not intended for Mr. Alston but instead for a motorist who had cut him off in traffic, he fully acknowledged the egregiousness of his conduct and apologized to Mr. Alston. He has since repeatedly acknowledged his regret and remorse. The incident was investigated by the town, which concluded that irrespective of his target, the supervisor's conduct warranted discipline. At the time, the discipline imposed by the town was deemed appropriate when weighed against the supervisor's otherwise unblemished work history and heroism at work, for which he later received the Medal of Valor from Vice President Joseph Biden and Attorney General Eric Holder.

Racially discriminatory and harassing conduct in any forum is unacceptable, and the board will not tolerate it in the town's workplace. In addition to disciplining the supervisor in August 2010, the town implemented the following in the aftermath of Mr. Alston's July 2010 report:

- In the months that followed Mr. Alston's report, it provided training from the Massachusetts Commission Against Discrimination for 175 town supervisors (including all Fire Department supervisors) about the anti-discrimination laws and their obligation to report any discrimination, harassment or retaliation of which they become aware;
- It completed anti-discrimination training of all remaining firefighters the following Spring;
- It adopted a robust Anti-Discrimination Policy to complement its existing Sexual Harassment Policy;
- It kick-started a number of workplace inclusion initiatives.

In addition to these systemic approaches to addressing workplace harassment, the town also sought to work with Mr. Alston to ensure that there was no retaliation in the wake of his report. In November 2012, Mr. Alston filed a complaint at the Massachusetts Commission against Discrimination, alleging that he had been ostracized after making his report. The town opened an investigation of this claim, and invited Mr. Alston to participate. He did not. On each subsequent occasion Mr. Alston voiced concerns about his work environment – whether to supervisors or co-workers – the town investigated those concerns. During these investigations, the town repeatedly tried to include Mr. Alston, and Mr. Alston repeatedly did not participate.

The town strongly believes that it has followed “best practices” in responding to the incident that occurred in July 2010 and its aftermath. The board also recognizes that there may be areas for improvement that the town should consider going forward. Accordingly, the board has informed Mr. Alston of its commitment to the following:

- The town shall retain an outside attorney to review the items Mr. Alston raised in his November 24 letter that are appealable under the town’s anti-discrimination policy, and make a recommendation to the Board of Selectmen;
- The town shall retain an outside attorney to affirmatively review the processes leading up to the other determinations Mr. Alston raised in his November 24 letter, and whether there are additional “best practices” that the town should consider adopting going forward;
- The town shall formally request the town’s Chief Diversity Officer and newly-constituted Commission on Diversity, Inclusion & Community Relations to undertake a review of the racial climate in the town’s workforce, with the assistance of an outside consultant if needed.

Finally, the town is actively seeking to work collaboratively with Mr. Alston regarding his work status. On this point, the town can only assure the public that statements that have been made suggesting that Mr. Alston has been on unpaid leave since reporting the incident in 2010, or as the result of his having reported this incident, are not correct. The town is limited by privacy laws from speaking publicly about Mr. Alston’s work status and the circumstances of his current leave status. The board and the town’s administration will work collaboratively with Mr. Alston and his counsel in an effort to return him to work as soon as possible, to a workplace in which he and his co-workers will all feel safe, supported, and mutually respected.

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Agenda for December 17, 2014

5:30 pm PROPOSED EXECUTIVE SESSION
Town Counsel Joslin Murphy and Human Resources Director Sandra DeBow will appear to discuss strategies relative to potential litigation

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Minutes for December 17, 2014, approved December 30, 2014

EXECUTIVE SESSION / LITIGATION

Town Counsel Joslin Murphy and Human Resources Director Sandra DeBow appeared to discuss strategies relative to potential litigation.

In Open Session- the Chair stated the purpose for Executive Session, stating all subjects that may be revealed without compromising the purpose for which the Executive Session was called.

The Chair then stated the reason(s) for the Executive Session:

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. G.L. c. 30A, §§ 21(a)(3)

The Board of Selectmen, during a properly constituted and noticed meeting:

VOTED: to go into Executive Session

Roll Call Vote: Voting in the Affirmative:

Goldstein

Daly

DeWitt

Wishinsky

Franco

The Board of Selectmen (WILL) RECONVENE in Open Meeting after the Executive Session.

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Agenda for January 6, 2015

5:30 pm **PROPOSED EXECUTIVE SESSION**
Town Counsel Joslin Murphy, Human Resources Director Sandra DeBow and Fire Chief Paul Ford will appear to discuss the discipline or dismissal of, or complaints or charge brought against a public officer, employee, staff member or individual.