

TOWN OF HULL
BOARD OF SELECTMEN
PUBLIC STATEMENT
November 18th, 2014

In view of recent cases that developed this past week involving public safety personnel, the Board is making the following additional comments to address questions that have been raised. The Town has a long history of appropriately responding to personnel claims. When there is a proper legal basis to place an employee on leave or to terminate them, we do so. The fact that individuals have not been placed on leave is not indicative of a lack of action or unwillingness; it is indicative that there is not a proper basis to do so at this time. The fact that claims have been made is the start of a process that is defined under our system of justice.

When the Town receives a claim, it considers each claim carefully and begins the process of evaluation. Part of processing a claim is to ensure that all parties' due process rights are respected. The act of filing a claim is never construed by the Town as evidence of the validity of the claim. The validity of each claim will be determined and acted upon with great care, consistent with all appropriate laws of the Commonwealth and the United States.

The Town, as an employer, has a very fine line to walk, given that there are many federal and state laws on these issues. In the Police cases, there are three attorneys involved defending the Town. All three attorneys have excellent reputations and broad experience. The actions of the Town are consistent with the advice being provided, which we believe is sound counsel.

What are Town Leaders doing to address these matters? The Town has taken appropriate action when there is a basis to do so. The Town is carefully monitoring all matters relative to each case. Hundreds of hours of Town time have been spent addressing the various cases at hand.

Many people in the community have asked questions about these situations. The Town has responded to many questions with information that it can release without jeopardizing the rights of individuals, the Town or adversely affecting the Town's legal obligations and position. We must be careful not to create additional liabilities for the Town by prematurely taking actions or commenting on cases that are being adjudicated in their appropriate legal venues.

While in many respects it would be easier and more transparent to release all the information regarding these cases, to do so before the process to adjudicate these allegations has been completed could create liability for the Town. The Town's leadership would no doubt come under more criticism if additional cases were filed by some of the participants claiming we acted without proper cause.

The law and good public practice requires that from time to time there are matters that must remain confidential until they are adjudicated. The need arises in order to protect the Town's legal and fiduciary position, as well as the rights of all parties involved. The Town's leaders do not make those judgments lightly.

Taking action against Town employees – The question is sometimes asked as to why the Town has not taken immediate disciplinary action against employees named in the various claims or legal matters.

When it is appropriate and there is a sufficient basis to do so, the Town does take prompt action concerning an employee's status.

An example is the matter that just arose involving a firefighter. When the Town Manager first became aware of this matter, he requested the Fire Chief to place the individual on immediate leave. The Town took the first steps to properly notify authorities in this matter. Those authorities undertook an investigation and have also taken action.

The Town had to act cautiously so as to not interfere with their investigation and yet at the same time take appropriate local action. The Town has taken appropriate action and is proceeding with a personnel action in accordance with state law. The employee involved has certain rights and the Town must observe those rights and carefully follow the law. To not do so would likely impair the individual's rights and create additional legal issues for the Town.

What action was taken relative to the allegations in the McKenna suit regarding monies under the control of a private employee organization? The Town took appropriate action, which was widely reported. Based on information that the Town had, it removed an employee from duty and placed him on administrative leave. That employee soon thereafter retired. In reference to other employees, there has not been a sufficient legal basis to support the Town taking action against them. The entire matter continues to be investigated by the Attorney General's Office and the Town continues to cooperate with that outside and independent law enforcement agency. If a sufficient basis arises that warrants and supports the Town taking further action, it will do so.

Why have other employees not been placed on leave from their jobs? Some people have suggested that the Town should place certain employees on administrative or other leave pending the outcome of these matters. Where it has been appropriate and a legal basis exists for doing so, the Town has done so. Civil Service and other laws do not permit the Town to lightly remove someone from their position without following due process. To do so would only create additional liabilities for the Town. The Town continues to monitor all these cases and will take such action as is appropriate and warranted.

If it were felt, after consideration of the facts and law, that certain employees should be placed on leave and be replaced by others, the Town would do so. While some have publicly suggested doing that, there is not a present justifiable legal basis to do so.

Insurance and Impact on Town insurance rates – The Town, as all businesses do, obtains insurance to protect it from various types of claims. Part of that contract requires the Town to cooperate with the insurer in the defense of any claims. The Town has an obligation to the public to act in a manner which minimizes liability to the Town and its taxpayers.

As in most situations where claims are covered by an insurance policy, the claim and its result will be factored into annual premiums. This is true for any claim or lawsuit involving the Town. That is also why, in part, the Town diligently follows good risk management practices.

The rights of individuals and the Town are involved in any claim. The Town has an obligation to respond appropriately to any claims and, in doing so, act in due regard for the benefit – both financial and otherwise – of the public. It is important to remember that information released publicly, while it may answer legitimate questions asked by members of the community, will also be evaluated and used by those with claims now or in the future against the Town for their benefit and not for the Town's benefit.

STATUS OF CASES

November 18, 2014

Wendy Cope-Allen v. Hull, et al – This is a suit filed by Attorney James P. Brady of Hingham, in Plymouth Superior Court.

There is a Court-issued impoundment order on the case, which limits what the Town can comment on publicly. The Town hired an HR specialist (Julie Moore, Esq.) to investigate the allegations. The Court's impoundment order prohibits the Town from discussing the results of the investigation.

The Town has insurance in place to pay the costs to defend against this claim. The firm of Mahoney and Miller is representing the Town, and the firm of Pierce, Davis and Perritano is representing Chief Billings, Captain Sawtelle and Lt. Dale Shea.

James McDonald v. Hull, et al – This is another suit filed by Attorney James P. Brady of Hingham. This case is pending in the United States District Court for the District of Massachusetts. It was originally filed in Plymouth Superior Court and removed by the Town to the US District Court.

Originally Attorney Brady listed the Town, Chief Billings, Captain Sawtelle, Sgt. Gregory Shea and Officer Scott Saunders as defendants. Attorney Brady, at the urging of the Court, amended the filing and removed Chief Billings, Captain Sawtelle

and Sergeant Gregory Shea from the case; the remaining defendants are the Town and Officer Saunders.

The Town has insurance in place to pay the costs to defend against this claim. The firm of Pierce, Davis and Perritano is representing the Town and Officer Saunders.

This case is scheduled for trial in February 2015.

Donald Love v. Town of Hull, et al – This is also a suit filed by Attorney James P. Brady of Hingham in Plymouth Superior Court.

The defendants in the suit are the Town, Chief Billings, Captain Sawtelle and Lt. Dale Shea.

In order to bring a case of workplace sexual harassment of this nature to Superior Court, an attorney is required to first file a complaint with the Massachusetts Commission Against Discrimination (MCAD).

After filing with the MCAD, Attorney Brady requested to withdraw the case from the MCAD in order to file in Superior Court. This request is routinely granted. The MCAD makes no investigation of the complaint or assessment of the allegations. It is purely a procedural matter not involving the merits of the complaint.

The Town has insurance in place to pay the costs to defend against this claim. The firm of Mahoney and Miller is representing the Town, and the firm of Pierce, Davis and Perritano is representing Chief Billings, Captain Sawtelle and Lt. Dale Shea.

The case has not yet been served on the Town.

Richard McKenna v. Hull Police Relief Association, Inc., et al – This is also a suit filed by Attorney James P. Brady in Plymouth Superior Court.

The Town is not a party to this suit and the defendants are not sued in any of their roles as employees of the Town.

This is a private matter between the plaintiff (McKenna) and the defendants (Hull Police Relief Association, Inc., Hull Police Associates, Richard Billings, Robert Sawtelle, Dale Shea, Robert Casagrande, Gregory Shea, and John Coggins) over claimed benefits owed to Mr. McKenna from the Hull Police Associates. The Hull Police Relief Association and Hull Police Associates are not Town-affiliated organizations, which is why the Town is not a party to this suit and why the Town is limited in the actions that can be taken at this time.

However, the Town is always concerned when there are allegations involving Town employees either in their official roles or as private citizens that imply or allege possible criminal acts. When this matter first arose, the Town took prompt action in placing an

employee on paid leave in accordance with the Civil Service process. The employee subsequently retired from his employment with the Town thereafter.

The matter is currently under investigation by the Attorney General's Office. The Town continues to be in contact with that Attorney General's Office and has provided whatever assistance has been requested.

When the Attorney General releases the results of the investigation, the Town will take action as based on that investigation and any other appropriate information.

Commonwealth v. William Hatfield – This is a criminal matter brought by the Commonwealth against a member of the Hull Fire Department alleging that he obtained controlled substances illegally.

The Town Manager immediately brought the situation to the attention of law enforcement agencies. Due to the criminal nature of the allegations, the employee was immediately placed on leave. The Town continues to cooperate with the appropriate law enforcement agencies.

A local level Civil Service hearing will be held concerning the employment status of the employee, as required by state law before certain actions can be taken. This hearing will address the employee's present and future status with the Town.