

MINUTES OF THE BOARD OF SELECTMEN MEETING

February 17, 2015
Meeting held at Town Hall

MEMBERS PRESENT: Chairman Robert Merry, Vice Chairman Joseph Perry, Clerk Robert Snow, David Petersen (Town Administrator Deborah Eagan, Assistant Town Administrator Amy Lydon) Jack Cook- ABSENT

PUBLIC ATTENDEES: Bill Gaynor - Cemetery Commissioner

CALL MEETING TO ORDER

Chairman Robert Merry called the meeting to order at 10:20 a.m. He said the meeting is being audio and video recorded digitally.

PLEDGE OF ALLEGIANCE

Bill Gaynor led the Pledge of Allegiance.

Appointment 10:00 a.m. William H. Gaynor, Cemetery Commissioner

- Discussion on William H. Gaynor's hours as listed on the Cemetery payroll voucher and timesheet for the two-week period ending February 4, 2015

Chairman Merry read the letter that was mailed to William H. Gaynor (copy attached). He said the first timesheet submitted by Gaynor showed that he worked 26 hours on Thursday, February 4, 2015, which was changed later to 24 hours. Merry asked Gaynor how he came up with these hours. Gaynor said it was a typo. He said he got a call from Accounting, and they said there are only 24 hours in a day, he didn't realize that he put down 26 hours and he resubmitted the time form. Merry said it was discovered that the hours of the other two commissioners were also revised on the time form. Gaynor said he was completing the payroll in the freezing cold barn and that was a mistake. Eagan said the time sheet is also unsigned. Gaynor reviewed the revised payroll and said he sees his error, but he has the time cards and the other two commissioners worked 28 hours each. Perry asked to see the timecards and reviewed them once Gaynor gave them to him. He said the Town Accountant noted that he plowed for many hours and asked Gaynor to explain this. Gaynor said he plowed from 6:00 a.m. to the following 6:00 a.m. He said he received a call on Wednesday evening about a Hurley funeral, he found where Hurley was to be buried and started snowblowing the graves and roads to prepare for the funeral since the Cemetery would be closed the following Saturday. He said he worked on adrenaline, his wife brought him sandwiches and coffee, and his son brought him gasoline. He said he hasn't missed a funeral in 25 years, it was a crazy thing to do with nobody else around, but it was his responsibility to get the grave open so that someone's loved one could be buried. He said looking back, he would never do it again.

Perry asked how he worked without lights. Gaynor said the lights on the excavator shone on the road and he used that as light. Merry asked how much is charged to open a grave. Gaynor said \$750 in the winter, \$500 in the summer. Petersen said there was four feet of snow on the ground and asked how he was able to open this grave without damaging other lots or headstones. Gaynor said that is why they voted to close the Cemetery since they can't take those kinds of risks. He said they normally use a snowblower to carefully clear around the graves. Petersen said Gaynor worked 4 hours on Tuesday, and then 24 hours on Wednesday, and asked when the funeral was. Gaynor said it was supposed to be Saturday, but they delayed and then rescheduled the funeral for a future date. Petersen said you worked for 24 hours and there was no funeral. He said there was a blizzard on Wednesday. He asked why under the conditions the Cemetery Department didn't say that the burial was impossible to do. He said he is concerned that Gaynor was by himself at the Cemetery in the middle of the night. Gaynor said the Police knew he was there and he called them at 2:00 a.m. Petersen said Gaynor worked for 24 hours for no reason and much better planning is needed, and we shouldn't be opening graves during a blizzard. Petersen asked if the Commissioners voted to have him work 24 hours. Gaynor said the Commissioners didn't discuss closing or not opening the Cemetery so he assumed it was business as usual not knowing the amount of snow we had. Petersen said if Gaynor put the time in, he guesses that we have to pay him. He said the Cemetery Commission should have some common sense discussions. He said he is concerned about the safety issues if Gaynor fell down or had a heart attack, there would be no way to get him help. He said the Selectmen as town officials have responsibility for the safety of town employees. He said the Cemetery Commissioners should set up a policy ahead of time if there are circumstances under which the cemetery should be closed / not open. He said this one event cost \$1,212 for Gaynor's pay alone and asked if the person has been buried yet. Gaynor said no, the body is still in Beverly.

Perry said we are concerned about employee safety and this situation wasn't safe. Gaynor said you are 100% correct, his adrenaline was flowing, but looking back it was ridiculous. He said he was getting ready for a funeral based on past practice.

Merry said Gaynor is paid an hourly rate and asked how the work schedule is set. Gaynor said he works four hours a day for a total of twenty hours per week. He said they get summer help and the other two commissioners dig and come in for funerals. He said he is on the phone all the time and gets calls from funeral directors and then calls the other commissioners. He said Commissioner Dalzell digs the graves two to three days ahead, stones are picked up and foundations are put in. Merry asked if this is done during a posted meeting. Gaynor said no, it is part of the work schedule. Merry asked if there are job descriptions for the elected Cemetery Commissioners. Gaynor said he maintains the grounds and is the direct contact for funeral directors, and he keeps the records. Merry asked if there is anything in writing. Gaynor he is sure there is something somewhere, and to ask Commissioner Cook. Petersen said he is on the Personnel Board and because this is an elected position, there is no job description to his knowledge. He said the commissioners have always done the labor and there have been issues in the past with certain people. He said the concern is if you want to be a

Cemetery Commissioner, then you have to dig graves. Gaynor said this is his fourth year as a Commissioner. Petersen said the Commissioners are doing laborer positions, and the set up needs to be looked at and changed. He said technically under the law two Commissioners cannot make a decision outside of a posted meeting, and it is impossible to set up a meeting when a call is received about a funeral. Merry said the position is an elected official and any resident can fill out the paperwork and get voted in as a Cemetery Commissioner. He said if a handicapped person was to get voted in, they would not get paid if they cannot do the labor work, so some Commissioners would be paid, others would not be, and this needs to be looked into. He said there is a conflict of interest, and the Commissioners complete and fill out their own payroll. He said mistakes happen, but nobody verifies the payroll. He said Gaynor was out there alone and this needs to be addressed.

Petersen said no other department allows the employees to sign the authorization to pay themselves. He said this has been allowed to fester for many years, and the Town is getting a great deal since the Commissioners do a good job with little money. He said the issue is with state and ethics laws as this example highlights. He said the Commissioners should be supervisory and oversee the department and not be doing the work and getting paid for it. He said this should be looked at during the next budget season. He said we are saving money running things as they are currently being run, but are opening the Town up to questions about this. Perry said we need to correct this. Petersen said next budget year we may have to put more money in the Cemetery budget and look at their fees. He said he is reluctantly willing to sign Gaynor's payroll for 24 hours. Perry asked Gaynor to confirm that there will be no more burials until the spring, Gaynor said yes. Bob Snow asked if winter burials are new this year. Gaynor said they have been doing them for the last three years. Snow said this is a can of worms for the Commissioners since anyone can say they are having an illegal meeting each time there is a burial. Gaynor asked how far in advance a meeting would have to be posted and said cremations are often called in right before they are done. Merry said the current system is not working. Eagan said discussing Cemetery business over the phone is a violation of the open meeting law. Snow said going forward, they need to post meeting and we should look into having a laborer with a job description. Petersen said we have a period of time to come up with procedures since the burials have stopped, and we need to find a workable solution for the rest of the fiscal year.

Eagan said the Town Accountant is looking for direction on how to handle this payroll. She said the revised payroll is unsigned and dated the day before the first payroll that was submitted, and the hours don't make sense. Merry said he doesn't think we can accept the revised payroll sheet. Petersen said they should submit a new corrected voucher for Accounting. Merry said we need a different process for how the payroll records are kept and who keeps them. Snow suggested that the Selectmen meet jointly with the Cemetery Commissioners to sort this out.

Dave Petersen made a motion to reluctantly pay Gaynor for the 24 hours worked and set up a joint meeting with the Cemetery Commissioners, Joseph Perry second, all in favor - aye (4-0). Jack Cook - ABSENT

Perry asked that the time cards be attached to the payroll. Petersen asked Gaynor to confirm that no other work will be performed other than snow plowing. Gaynor said they are not even plowing now. Petersen said the Commissioners have thirty days to look into procedures. He said they need to figure out how the labor will be done if the Commissioners stop doing it. Eagan said they can also look through the open meeting law requirements to see how it applies to the Commissioners digging graves. Petersen said we should also figure out how to pay them since they shouldn't be signing their own payroll.

Bob Snow made a motion to start the process of looking into this, bring the Cemetery Commissioners in to discuss this, and to send a letter notifying the Cemetery Commissioners of this, Dave Petersen second, all in favor - aye (4-0). Jack Cook - ABSENT

There being no further business before the Board, Chairman Merry called for a motion to adjourn. Dave Petersen so moved, Bob Snow second, all in favor – aye (4-0). Jack Cook - ABSENT

Open meeting adjourned at 11:11 a.m.

Respectfully submitted,
Amy Lydon
Assistant Town Administrator

ATTACHMENTS:

1. Letter dated February 12, 2015 to William Gaynor regarding this meeting
2. First Cemetery payroll submitted to Accounting
3. Revised Cemetery payroll submitted to Accounting
4. Cemetery Commissioner time cards