

Town of Sherman
Board of Selectmen
Special Meeting
12 Jan. 2019
10:00 AM
Mallory Town Hall

MEMBERS PRESENT: First Selectman Don Lowe, Selectman Kevin Keenan, Selectman Bob Ostrosky

AUDIENCE AND INVITED: Town Labor Attorney, Duncan Forsythe, E. Holub, L. LaVia and an audience of approximately 15 were in attendance.

CLERK: Linda Whitney

CALL TO ORDER: First Selectman Lowe Called the Meeting to Order at 10:00 AM

Pledge of Allegiance

D. Lowe made a motion that SB Addison Larson be dismissed as Fire Marshall for the Town of Sherman for the following reasons:

1. Her willful insubordination in refusing to attend a meeting on Dec. 27, 2018 at which time her position as fire marshal was going to be properly reclassified to non-exempt status with designated hours and an established hourly wage.
2. Her inappropriate insistence that she would only agree to a reclassification to exempt status at a salary of \$450.00 per week. This is deemed as abandonment of the position.
3. The filing of a false complaint with the Connecticut OSHA Division that the First Selectman had refused to obtain protective gear for her when a request for such protective gear had never been made.
4. Her insubordination in repeated refusals to refrain from working as fire marshal until protective equipment could be obtained despite multiple directives given by the First Selectman.
5. Her insubordination on Nov. 8, 2018 by yelling and screaming at the First Selectman and stating that she would not comply with his directive that she hold regular office hours each week and provide a work log of her activities.
6. Attempting to close the Town Senior Center when she had no authority to do so.
7. Her belligerent insubordination on Dec. 5, 2018 in refusing to agree to comply with a directive to file a weekly work log of her activities.
8. Her repeated refusal to limit her hours to 18 per week without authorization from the First Selectman.

K. Keenan seconded the motion.

Discussion:

D. Forsythe was introduced and explained that he was present to oversee the process pursuant to Section 29-300 of the Connecticut General Statutes.

A. Larson asked about the process. D. Forsythe explained that First Selectman, D. Lowe would present evidence for the Board of Selectmen to discuss. A. Larson will then be given an opportunity to respond and there will be time given to anyone in the public who wishes to offer a testimonial. A. Larson requested that she be able to give her statement first. The Board of Selectmen and D. Forsythe agreed to honor that request.

A. Larson began with her understanding of the CT. state Statute 29-300. Her understanding was that the State controlled her job as Fire Marshal and that she could only be removed from her job if the State determines that she:

1. Has not kept her certification current. (She has kept all certifications current.)
2. Has not performed her duties faithfully as outlined by the statute. (She feels she has performed faithfully.)

A. Larson reported that it was her belief that the Board of Selectmen acted as an appointing authority but did not have the power to remove her from her duties as the Fire Marshal. A. Larson's understanding of the State statute was that the fire marshal had to answer only to the State which is a measure that protects fire marshals from local coercion.

D. Forsythe gave a clarifying statement regarding the reclassification of certain town jobs.

D. Lowe responded that the issue at hand is that the CT. Dept. of Labor found the Fire Marshal job out of compliance and requires a reclassification of the job from a stipend paid to a non exempt paid position. He requested that A. Larson come in to Town Hall and sign the reclassification contract and she refused. D. Lowe said the town is out of compliance, therefore we cannot keep our current fire marshal, A. Larson. D. Lowe said the town needed the fire marshal to sign a reclassification contract.

K. Keenan asked A. Larson if she had spoken to the State Fire Marshal for direction in this matter. It is his understanding that the fire marshal does answer to the First Selectman in a municipality, as do all town employees.

A. Larson responded that the State Fire Marshal did not respond to her calls but that several Deputy Fire Marshals were in support of her position.

K. Keenan responded that his understanding of the statute is that a municipality can make a more restrictive regulation than the state but not a less restrictive one. He questioned whether A. Larson could see herself moving forward in harmony with the First Selectman.

A. Larson agreed that the local municipality can make more restrictive regulations.

D. Lowe responded that it is impossible to continue employing A. Larson as the fire marshal without a reclassification contract as we are out of compliance with the CT. Dept. of Labor.

L. LaVia responded that A. Larson is not the only person asked to sign a reclassification contract. The Dept. of Labor identified several positions that required reclassification.

B. Ostrosky asked that A. Larson answer to the reasons for her dismissal as outlined by the First Selectman's motion.

A. Larson responded that she did indeed refuse to attend the meeting on Dec. 27, 2018. She does not feel that she abandoned her position at any time but rather, that the meeting should have been an opportunity for her to renegotiate her salary and if that was not going to be the case that she need not attend.

There followed a discussion of the job description. A. Larson reported that she learned about the job while being trained by the former fire marshal. L. LaVia reported that the job description was posted when the job opening was advertised in Aug. 2016. At that time, the job was a stipend job, paying \$10,500.00 annually. Last March the Board of Selectmen voted to increase the stipend to \$14,000.00 per year. The discussion included A. Larson's reaction to the increase and she admitted that she was disappointed with the increase.

A Larson reported that she had contacted the Dept. of Labor and felt that her job was exempt from reclassification as she doesn't feel the job can be limited to prescribed hours.

B. Ostrosky asked for an explanation regarding A. Larson's refusal to attend the Dec. 27, 2018 meeting. A. Larson confirmed that she refused to meet as she didn't feel there was cooperation on the part of the First Selectman. She requested a \$475.00 weekly salary based on Exempt Employees for The Purposes of Wage And Hour Laws section of the state guidelines.

D. Lowe asked if the Board of Selectmen had ever seen a work log indicating that the fire marshal works 16-20 hours per week. None have seen a work log from the fire marshal. D. Lowe had requested that A. Larson submit a weekly work log but she refused. He had requested that she keep regular office hours and post them on the town website. A. Larson refused to do so. D. Lowe reports that he has never restricted the fire marshal but did require accountability.

D. Forsythe reported that an employee working for an hourly rate must keep an accurate log of their hours.

A. Larson replied to the false OSHA complaint by explaining that from 2016 through 2017 she requested personal protective equipment but it was not supplied. L. LaVia supplied a page from the 2018 budget workshop showing that the current Board of Selectmen approved \$300.00 for personal protective gear. D. Lowe responded that A. Larson never attempted to order the personal protective gear through the First Selectman's office. Further, as soon as the First Selectman was made aware that the PPE was needed, it was ordered.

A. Larson was unaware that the PPE was approved in the budget and felt that the OSHA complaint was a means to an end that backfired and turned the Board of Selectmen against her.

K. Keenan pointed out that the budget request came from A. Larson. D. Forsythe asked when the budget was passed. D. Lowe replied that the budget was passed in May of 2018.

A. Larson responded to the reason of refusing to refrain from work by explaining that her understanding was that she was required to report to work even if the First Selectman directed her otherwise.

D. Lowe explained that the directive was only until the PPE could be purchased and that the directive to refrain from working was made for safety reasons.

B. Ostrosky asked about reason # 5.

A. Larson admits to yelling at D. Lowe and reasoned that she was upset about his requiring her to keep office hours and move her position to an hourly rate. She makes appointments on an as needed basis and feels that this is more effective. She reports that she began keeping work records on the program OUTLOOK in November and is willing to share them.

A. Larson admits to citing the incorrect citation at the Senior Center. She requested D. Lowe's signature, he refused as the citation was regarding a defunct heat detector which had not been working for about 12 years. A. Larson could potentially have shut down the Senior Center for nonessential safety items. A. Larson submitted a time line of events and explained that she carefully timed her citation so as to not interrupt the Senior Center.

A. Larson asked that she be granted due process. She shared a court case and guidelines regarding due process. She did not feel that today's proceedings constituted a fair, unbiased hearing. She feels her rights were violated when she was suspended without pay prior to a hearing. She does not feel dismissal is warranted as her certifications are current and she has performed her duties faithfully.

D. Lowe explained that A. Larson has been suspended as her position is out of compliance with the CT. Dept. of Labor. Due process was satisfied in December when A. Larson refused to attend the reclassification meeting. There was a 5 minute break at 12:00 PM.

PUBLIC COMMENT:

B. Trott, town social worker, feels that there may be miscommunication on both sides of this issue. She appreciates that the fire marshal and the First Selectman are diligent workers who do their jobs well and would like to see this issue resolved through mediation.

Gary Albert, fireman, gave testimony to the excellent job A. Larson has done as the fire marshal.

R. Gorman, White Silo Farm, would like to see this issue resolved through mediation as he feels A. Larson does her job well and in a professional manner.

S. Mesquita, New Fairfield, gave testimony to the excellent character of A. Larson.

P. Mickelson, Rte. 37, gave testimony as to how helpful and professional A. Larson was with him and his family after his house burned down last March. He would like to see this issue resolved.

K. MacLean, Happy Acres, would like to see the problem resolved and A. Larson to remain in her position. She gave testimonial as to how helpful and professional A. Larson has been with her family.

D. Lowe responded to the public comment by reminding everyone that the job is currently out of compliance and cannot continue as it is currently structured.

A. Larson asked where the evidence was showing the State requires job reclassification for her position. A discussion ensued where L. LaVia reported her conversations with Luz Rodriguez and the state visit. L. LaVia showed a copy of the reclassification letter that was modeled after the state requirements. D. Forsythe confirmed the fact that the Dept. of Labor required a reclassification of the job.

A. Larson responded by stating that she would like time to contact the Dept. of Labor independently to confirm.

D. Lowe replied that she was free to do this and could have anytime after the Dec. meeting where the job reclassification letter was being made available to her.

A. Larson closed with a prayer.

D. Lowe asked for a vote on the motion for dismissal that had been seconded by K. Keenan.

Vote For was Unanimous.

ADJOURNMENT:

D. Lowe adjourned the meeting at 12:40 PM.

The next Regular Monthly meeting is scheduled for 24 Jan.2019

Respectfully Submitted,

Linda Whitney