

## Select Board Meeting Minutes

June 28, 2023, Regular Meeting (Hybrid) – Executive Session

Via Zoom Platform

Select Board Members Present: Kristen Reed-Chair, Susan Areson-Vice Chair, John Dundas-Clerk, Robert Weinstein-Member, Stephanie Rein-Member

Select Board Members Absent:

Others Present: Darrin Tangeman-Town Manager, Tim Hickey (Truro Resident), David Jenkins (Town Counsel and Attorney at KD Law), Bill Henchy (Attorney representing Vice Chair Susan Areson), Jack Riemer (Truro Voter), Jan Worthington (Truro Voter)

Chair Reed called the meeting to order at 10:58 a.m. and read the information for the public to access the meeting and participate.

### Consideration of Anonymous Complaint Filed Against Vice Chair Susan Areson

Chair Reed made a motion that the Select Board enter into Executive Session for the following purposes: *(1) In accordance with the provisions of Massachusetts General Law, Chapter 30A, §21 (a) 1 to discuss the reputation, character, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual; review and vote to release or hold meeting minutes and not to reconvene in open session, unless the individual involved requests that the session be open; and (2) In accordance with the provisions of Massachusetts General Law, Chapter 30A, §21 (a) 2 to conduct strategy sessions in preparation for negotiations with nonunion personnel (Town Manager), and to reconvene in open session.*

Vice Chair Areson seconded the motion for discussion purposes.

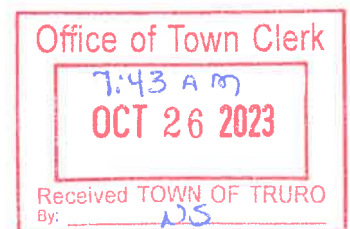
*Prior to the vote, Chair Reed opened the forum for discussion and recognized Vice Chair Areson who requested, in accordance with Massachusetts General Law Chapter 30, that this matter be discussed in public in the interest of transparency. Chair Reed then recognized Mr. Hickey who cited a 2017 Massachusetts Supreme Judicial Court decision that stated the public had a recognized interest in knowing whether public servants are executing their duties in a law-abiding and efficient manner. Mr. Hickey noted that the Massachusetts Supreme Judicial Court also found that a public body may not meet in executive session to discuss the professional competence of an individual and that any materials used in a performance evaluation bearing on an individual's professional competence are not exempt from public disclosure. Mr. Hickey stated that the Town Manager's performance evaluation must be made available to the public and that any discussion of the Town Manager's competence must be done in the open and not behind closed doors. Mr. Hickey further stated that a Member of the Select Board, at last night's Select Board meeting, had disrespected the voters who had signed a petition to not renew the Town Manager's contract.*

Roll Call Vote:

Vice Chair Areson – Aye

Member Dundas – Aye

Member Weinstein – Aye



*Upon the recording of Member Weinstein's vote, Chair Reed recognized Town Counsel Jenkins and Attorney Henchy who discussed the anonymous complaint filed against Vice Chair Areson since it was an agenda item for today. Town Counsel Jenkins opined that once the discussion regarding the anonymous complaint was concluded, Chair Reed may make a motion to move into Executive Session to discuss the matter regarding Town Manager Tangeman.*

Under the advice of Town Counsel Jenkins, Chair Reed then announced that the vote on her motion would not be completed.

Chair Reed recognized Mr. Riemer who asked if this matter was properly advertised in accordance with Massachusetts' Open Meeting Law and Town Manager Tangeman confirmed that it had been. Chair Reed then recognized Town Counsel Jenkins who stated that he had reviewed the agenda over the weekend, and it was properly posted in accordance with the Massachusetts' Open Meeting Law.

Chair Reed recognized Vice Chair Areson who respectfully requested that the Select Board immediately dismiss the complaint in accordance with the Select Board's Policy Memorandum #31. Vice Chair Areson read a portion of Policy #31 aloud.

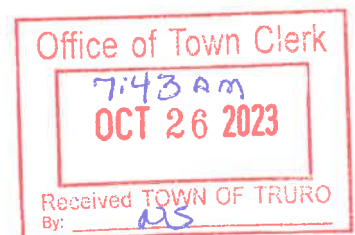
Chair Reed then recognized Town Counsel Jenkins who provided background on this matter and noted that the complaint was filed by an anonymous registered Truro voter whose attorney, Adam Dupuy, notified Town Counsel Jenkins of the complaint. Town Counsel Jenkins opined that the complainant is not anonymous as Attorney Dupuy is a contact person for the complainant.

Town Counsel Jenkins said that Attorney Henchy had sent correspondence to the Select Board that was received today. In his correspondence, Attorney Henchy had written that the complainant was not protected under Massachusetts' Whistleblower Law, Chapter 149 §185, but Town Counsel Jenkins noted that at this time the complainant is anonymous, and it is unknown if the complainant is or was an employee of the Town. Town Counsel Jenkins then briefly discussed Policy Memorandum #31 and stated that Attorney Henchy wrote this anonymous complaint as unfair towards Vice Chair Areson.

Town Counsel Jenkins said that what should be of concern to the Select Board is that the complaint generally asserts that Vice Chair Areson had contact with unionized Town employees. Town Counsel Jenkins stated that Members should be concerned about a member having contact with employees on issues of wages, hours, and conditions of employment. Town Counsel Jenkins stated that the Town has an obligation to look into the complaint. If there are issues that may have to be addressed that can occur, and if not, the complaint will go away.

Chair Reed thanked Town Counsel Jenkins for his counsel. Chair Reed then opened the floor for the Members who discussed or commented on the following highlighted topics: an independent party investigate this matter, so it doesn't evolve into a "he said, she said situation" and the dismissal of the complaint against Vice Chair Areson.

Chair Reed invited Vice Chair Areson to respond to the Members' comments. Vice Chair Areson said that it was her right and duty to assess whether the current leadership is best for Truro and any conversations regarding this duty did not constitute an investigation nor violated the Charter. Vice Chair Areson added that she had done nothing inappropriate, and she gave no credence to an anonymous complaint.



Chair Reed invited Attorney Henchy to speak on behalf of Vice Chair Areson. Attorney Henchy said that he agreed with Town Counsel Jenkins that Policy Memorandum #31 was a directory and not mandatory. Attorney Henchy stated that he couldn't agree with the notion that this was not an anonymous complaint as determined by Town Counsel Jenkins. Attorney Henchy further stated that he sent a letter to Attorney Dupuy, a week ago, requesting the identity of the complainant. As of today's meeting, there had been no reply from Attorney Dupuy which Attorney Henchy stated was uncommon when attorneys communicated with each other.

With permission from Chair Reed, Attorney Henchy read aloud a letter into the record that he had written to the Members earlier in the day. Attorney Henchy reiterated Vice Chair Areson's full denial of impropriety and wrongdoing as a duly sworn member of the Select Board. Attorney Henchy stated that the Select Board is violating its own Policy Memorandum #31 by pursuing the anonymous complaint. Attorney Henchy concluded that it was his hope that the Select Board would end this pursuit, follow its own written policies, and then address the matter of the Town Manager's contract.

Chair Reed thanked Attorney Henchy and then asked Town Counsel Jenkins for comments prior to the Select Board taking a vote. Town Counsel Jenkins said that the Members had heard from both parties and that KP Law would not perform any investigation.

**Chair Reed made a motion that the Select Board vote to investigate the complaint received by the Board dated June 13, 2023, and any matter narrowly related to the complaint and that the Town Counsel is authorized to retain the services of an independent investigator who shall promptly investigate the matter and report their findings to the Truro Select Board.**

**Member Weinstein seconded the motion.**

**Chair Reed recognized Ms. Worthington who commented on the matter and requested that the Board not pursue an investigation and address the more pressing matters facing Truro.**

**Roll Call Vote:**

**Vice Chair Areson – Nay**

**Member Dundas – Nay**

**Member Weinstein - Aye**

**Member Rein - Aye**

**Chair Reed – Aye**

**So voted, 3-2-0, motion carried.**

Chair Reed announced that an investigation would commence.

#### **Strategy Session in Preparation for Negotiations with Town Manager Tangeman**

**Chair Reed made a motion to move into Executive Session for the following purpose: In accordance with the provisions of Massachusetts General Law, Chapter 30A, §21 (a) 2 to conduct strategy sessions in preparation for negotiations with nonunion personnel (Town Manager), and to reconvene in open session.**

**Member Rein seconded the motion.**

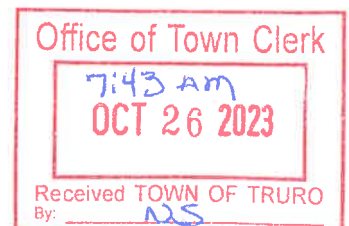
**Roll Call Vote:**

**Vice Chair Areson – Nay**

**Member Dundas – Aye**

**Member Weinstein - Aye**

**Member Rein - Aye**



**Chair Reed – Aye**

**So voted, 4-1-0, motion carried.**

Chair Reed announced that the Executive Session will move to the Town Manager's office at 11:42 am.

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff



Kristen Reed, Chair



Susan Areson, Vice Chair



John Dundas, Clerk



Stephanie Rein, Member



Robert Weinstein, Member

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