

Town of Hawley, Massachusetts
Minutes of a
Selectboard / Board of Health / Zoning Board of Appeals Meeting
In Person & via Conference Call

March 20, 2023

Present: Will Cosby, Bob MacLean, Hussain Hamdan - Selectboard
Tinky Weisblat, Gal Friday

Donna Lemoine, Wayne Lemoine, John Sears, Peter Beck, Kimberly Orzechowski, Mike Schofield, Mark Mizula, Jim Pedro, Jacob Gilbert, Gary Mitchell, Chris Tirone, Georgette deFriesse, Brandon Root, Christine Hicks, Dean Desmarais, Lloyd Crawford, Julie and/or Jeff Carantit, Liesel Nygard

The meeting was called to order at 7 p.m. Warrants and minutes from a previous meeting were signed. Then:

1. **The board discussed formally adopting its Hazard Mitigation/Municipal Vulnerability Preparedness plan.** Will explained that the plan had been accepted by both FEMA and MEMA and that adoption was needed for the town to be considered for funding in these areas in the future. Hussain moved to adopt the plan, Will seconded the motion, and all voted in favor.

While the group was discussing emergency measures, Hussain brought up the state of emergency declared by town officials on March 15 because of the extremely heavy snowstorm that week. He moved to ratify that decision and to have the declaration formally signed. Bob seconded the motion, and all voted in favor and signed the declaration. Dean promised to tell Tinky where to send the declaration.

2. **Kimberly Orzechowski put in a request from the Planning Board.** She noted that after she had joined the board in June, the group had made a resolution to become more active. The board had solicited public feedback, she reported, and the overwhelming sentiment was that Hawley needed to preserve the rural character of the town. The Board had considered expanding the Town's bylaws, which required a Town Meeting vote, but had come to the conclusion that no bylaw could cover every scenario, she explained. As an alternative, they were now considering adding language that would require applications before the Zoning Board of Appeals to present a site-plan review for plans requiring a special permit. This would simply require the ZBA to adopt a site-plan review as part of its special-permit process. Lloyd Crawford explained this would not apply to by-right activities, only to matters coming before the ZBA. Kimberly suggested that the Planning Board work to draft material for the ZBA's consideration. Hussain said that he would be supportive of exploring this further but of course would like to see the specifics the Planning Board would be presenting. Will concurred. Kimberly said that the Planning Board was due to meet on March 30 and she would return after that.

3. **Peter Beck presented a report on behalf of the Communications Committee.** He said that the committee had narrowed down candidates for the website re-design from five to two, Tuman Design and Alias Solutions.

He stated that two important issues for the Communications Committee had been that the vendor have servers in the U.S. and that the vendor have staff that could address issues as they

arose. He reminded the Selectboard that since funding for the re-design had been earmarked from ARPA money, the next concern would be allocating funds for maintenance.

Peter also touched on the broadband-equity question, stating that Will had sent him some information on that issue. He said that the Selectboard would need to give guidance about it. Did the town wish to join the Northfield county-wide effort, pursue digital equity funds on its own, or try to work with the four-town group of which it was already a member? Hussain observed that when the four-town group had started its project, it had essentially replied primarily on state funding though the towns had kicked in nominal amounts. He said that he now felt that a better network could have been built if the towns had put in a little more money. He stated his belief that the existing network could be improved with additional funding. Given the existing contract with the other three towns and large amount of infrastructure already in place, he said, he felt that we needed to try to work collaboratively with the four-town group and assess the intent of the other communities. He said he thought it was imperative that the four-town group meet and talk.

Will said that some of the digital funding was supposed to help townspeople afford to obtain connectivity and devices, another piece of this whole discussion.

Peter noted that the Communications Committee's current priority was the website design. He noted that town officials and committees had been asked how they would like to be represented on the new website. Will thanked Peter and the committee for their hard work.

4. **The board addressed a recent complaint from Chris Tirone alleging that the Selectboard had violated open-meeting laws by conferring and writing a letter about his employment in advance of the executive session originally scheduled earlier but postponed until that evening.** Will read aloud a draft response to the complaint. It stated that although he, Will, had conferred with legal counsel and committee chairs about the response, the Selectboard had exchanged emails only in order to set a date for the executive session. Will noted that the draft letter had been sent by mistake to the board and that Chris had accidentally received a copy in the packet informing him of the executive session. He apologized. Hussain said that he had certainly not participated in any meetings or discussion and largely agreed with Will's draft response to the complaint. He disagreed, however, with the response's assertion that no draft documents had been circulated prior to the meeting, pointing out that he had received a draft that looked very similar to the letter Chris was complaining about and been asked to review it. Bob confirmed receiving the same draft email. Hussain stated that he had sent an email on February 6, which he did not consider deliberative but rather just raising a point of order, in which he had cautioned that no materials containing decisions should be sent until after the Board had met. The board discussed whether to send Will's draft response to Chris's complaint. Bob and Hussain asked Will to sign it for the whole group, after taking out the passage that stated that no drafts had been circulated.

5. **Will opened discussion about road and culvert work.** He observed that there had been several recent meetings about the upcoming projects at Sears Road and King Corner. He said that the bids for the Sears Road work were due soon and that National Grid was working on moving poles to prepare for the work. He said he hoped that work would be completed by the fall.

Lloyd said that the big question was whether the culvert-grant money promised to the town would cover all the work needed. The group agreed that the King Corner situation might be dicey as it was located on a major road. The engineering firm was working on ways in which it

might be able to minimize road closures, Lloyd said. One proposal might be to temporarily close the entire road, making work go faster. Hussain noted that advance notice of any road closure would be crucial.

Will and Tinky presented a draft letter to Beth Giannini at FRCOG, asking her to include the Dugway in her list of important projects to be discussed with the state Department of Transportation. The group signed the letter. Lloyd reminded the board that some road initiatives required matching funds and said he was exploring ways in which the town could find such funds. He further noted that the Finance Committee would come to the next Selectboard meeting to discuss the budget for the next fiscal year.

6. **The board looked over the draft of its contribution to the Town Report**, which the members said looked good but still needed a dedication or two.
7. **Hussain asked the group to put off discussion of accepting opioid-settlement money** until everyone had a chance to look at the agreements in question. Tinky promised to send paperwork to the whole board.
8. **The group decided to put off discussion of the Tri-Town Landfill report** until the following meeting. Tinky was asked to send it to the board, the treasurer, and Lloyd.
9. **Hussain asked Brandon Root of the Fire Department to report on the cellular paging app** known as I Am Responding, which Hawley Fire had been using on a trial basis and was now considering acquiring under contract. Brandon said he had first used the app while working at the Charlemont Fire Department. He explained that current pagers were often erratic and that the app seemed stable and could get emergency information to responders more quickly. Will asked how the pending arrival of new 800MHz pagers would affect this; would Hawley still want to use I Am Responding at that point? Hussain stated that I Am Responding could not totally replace pagers (for instance when cellular service and internet failed, pagers were still necessary) but that even with better pagers, I Am Responding would still be valuable, because it got information to personnel faster and offered many features the pagers did not. Brandon and Hussain explained that these included group messaging, training calendars, and being able to mark scenes on maps that newer personnel could utilize. Dean Desmarais spoke highly of the app and noted that the State Hazardous Materials Team used it. He noted that one did not need perfect cellular service to receive a text message over it. He added that one of the app's useful features was that dispatchers in Shelburne would know where responders were. Hussain said 26 Franklin County jurisdictions were already using the app. The deadline for signing up contractually after the free trial was March 28 (the following week). Hussain explained that the cheapest approach would be a five-year plan (\$300 per year), but that he and fire chief Greg Cox both felt that a one-year test run subscription, though slightly more expensive, would be prudent.

Will moved to support funding the app for one year and reviewing its usefulness at the end of the year. Hussain seconded the motion. All voted in favor of the motion.

There was brief discussion of the new pagers. Hussain said they were bulkier and used battery faster but also provided clearer audio, and the battery usage was offset by the fact that they used a simple USB type charger similar to cell phones (meaning one could charge them in a car).

10. **The board spoke with Chris Tirone of the Highway Department.** Chris asked for an open session and waived the privacy of an executive session so the meeting continued in the open. Before discussion of his work started, Chris asked whether the WiValley trailer parked near the Fire Station would be moved anytime soon. The board asked Tinky to call WiValley and ask about this issue. Gary suggested that the trailer could be parked behind the salt shed.

Will addressed Chris, stating that between Chris's evaluation in December 2017 and the one in December 2022 no improvement had been noted. He enumerated many equipment problems and costs incurred while Chris was operating town machinery. He further stated that Chris seemed to spend a lot of time while driving on his cell phone. Will said that Chris had exhibited "carelessness, inattentiveness, and poor judgment." He also read aloud the letter he had sent to Chris notifying him that an executive session would be held and reminded him that he had given him an oral warning on January 13 asking him to improve his conduct.

Will called on Gary Mitchell, the highway superintendent, who said that if anything else broke during the current physical year, the maintenance budget would not be able to cover repairs. He added an additional expense to the list of damages Will had listed.

Will observed that the Selectboard was charged with the budget and with maintaining public safety. He added that having an employee who was not committed was unacceptable. Chris interjected that he as a Hawleyite had no desire to have his taxes go up.

Hussain said that he assumed that the list of accidents Will had discussed had come from Gary. He asked how long Gary had been on the highway department (nine years, he was told) and whether Chris was the only person who had had accidents in that time. Other people had apparently had accidents, too, but Gary indicated that Chris had had a lot.

Hussain also remarked that this was the first time he had heard about several of these accidents. He asked Gary how he had addressed Chris about these issues (orally, he was told). He asked Gary if he had given Chris written warnings. Gary said no.

Hussain further stated that in his opinion Gary had been taking up his concerns about Chris's work in a humiliating manner. He referred to Gary's spray-painting Chris's name on a guardrail he had bumped into, writing "Buster" on the side of the town truck Chris drove, and labeling a draft electronic devices policy circulated by the Personnel Committee as "the Tirone Policy" and then leaving it on the desk in the DPW office. Hussain pointed out that Gary had admitted to several of these occurrences on prior occasions. He suggested that constructive talk would have been far more likely to make Chris improve his job performance than these methods.

Will indicated that the current meeting was to discuss Chris, not Gary. Hussain countered that if Gary was Will's star witness, the tension between the two was relevant to the case.

Chris and Gary briefly exchanged hostile words.

Gary noted that Chris often drove too slowly. Chris said that he had no way of knowing how fast he was driving because the speedometer in his truck did not work. He said he was also trying to save wear and tear on the exhaust brake.

Gary said that equipment seemed to break repeatedly while Chris was operating it, using damage to the broom as an example.

Hussain asked Gary whether he had tried training Chris to use the equipment better. Had he, perhaps, given demonstrations? Gary said he had tried.

Will asked for Bob's opinion. Bob said that when Chris was hired he had been leery and that Chris had not been his choice. He said he had known of bad habits Chris had exhibited in a previous job, specifically raising alleged issues with a time sheet and a fuel card. Jim Pedro asked whether Bob was allowed to bring up Chris's previous job performance without proof. Jim added that Chris must be doing something right; he had been on the job for five years. Jim noted that there should be a protocol for reporting mistakes on the job. Will replied that in a small town with few employees it was hard to document everything. He added that a paper trail of Chris's accidents now existed.

Bob brought up an accident that had not appeared on Will's list. Bob spoke of an incident in which he said that Chris had "blown" Lark Thwing "right over" when Lark had been on his tractor. Chris responded that he would not have done this if he had seen Lark, who had been bent over at the time. He said that he had apologized to Lark.

Will called on Chris to respond to the allegations against him. Chris alleged that the deck had been stacked against him ever since he was hired. He said that Gary, Bob, and Rick Kean (who was on the Personnel Committee) had wanted another candidate to get the job but that the Selectboard had wanted to hire someone in town for the road crew. Chris reported that during the initial screening process, Rick had told him that the Personnel Committee had rejected his job application on the basis that he wasn't qualified. Chris had retorted that none of the personnel committee members had CDLs or had operated equipment and thus they were not in a position to know who was qualified.

He said that he had heard Gary talking against him to others, including in a conversation with his sister-in-law. He further stated that Gary refused to spend time training him. He alleged that he had been given little to no instruction. He noted that the mower was difficult to run and that he drove as fast as he could safely do so.

Hussain asked Chris what had happened in the case of the recent damage to the sander. Chris said that the sticks that marked the road had been taken out, preventing him from gauging how close he was to the roadside. According to Chris, there had been no opportunity to correct the truck's course once it went off the road.

Hussain asked Chris whether he had spoken to Gary about the faulty speedometer, and Chris said that he had gone so far as to look up a replacement part. Gary countered that parts like this in obsolete trucks were hard to replace.

Chris stated that Gary gave orders to him through other, part-time employees, such as Ted Palmer, and that Gary had always treated him badly.

Hussain asked both Gary and Chris whether they thought there was room for better communication between them. Gary asked whether better communication would keep equipment from getting broken.

Chris expressed a desire to learn on the job but claimed that Gary thought he was untrainable. Chris said that he believed he was capable of switching tasks fairly easily.

Hussain returned to the fact that no written accident reports had been received by the Selectboard until the present. He expressed concern about needing a full picture of accidents, not just those involving Chris. This was the first time he recalled the Selectboard having a hearing like this one, he said, although it appeared that there had been plenty of accidents in the past, even before Chris was hired.

Chris said that he had offered to pay, or help pay, for the damage he had inflicted to town equipment. Gary said that he had heard these offers "at some times."

Chris also said that not all the damages Will had mentioned were accurately described.

Hussain reiterated the importance of communication between Gary and Chris. He also asked what would help Chris do better. "A boss that believes in me," replied Chris. He suggested that another employee had had as many incidents as he.

Will asked Chris to account for the time he spent on the phone. Christine Hicks, Chris's neighbor, spoke up to say that because of her health issues she sometimes needed to be in touch with him in emergencies. Hussain stated that in his experience both Gary and Chris used their phones and said that as long as it was safe and professional he was happy they did and could answer whenever he called them since radios did not always work. Chris said that he pulled over when he needed to answer the phone and that he didn't call or text while driving.

John Sears next spoke, representing the Personnel Committee. He first stated that, contrary to what Chris believed, the other candidate recommended for Chris's job had not been a friend of Gary. He stated that the Personnel Committee had a procedure for sifting through applicants and that the committee and Gary had unanimously recommended another candidate for the job, only to find themselves overruled by the Selectboard at the last minute. He said they had been disappointed in that action, as well as in the fact that after Chris's negative six-month performance review the Selectboard had not taken any action. He said that he thought this non-action had left Gary with a feeling of being unsupported. He further suggested that at this point the group had to respect Gary's judgment. He said that he did not believe that Gary would treat people as Chris had alleged he did. Hussain reiterated his earlier mention of the spray painting and the "Tirone policy." John replied that after five years of the frustration Gary experienced, he might act childishly too. Hussain said that was not accurate, that Gary's negative treatment of Chris hadn't begun after five years but within months of his being hired. The Selectboard had discussed Chris's performance and Gary's treatment of Chris at a meeting in 2017 and had asked them to work together better back then. Hussain added that Chris had been chosen by the Selectboard not just because he lived in town but because he had a superior classification of commercial driver's license to that of the other candidate and that the Board two to one had felt he was in fact the best candidate for the job. He also said the majority of the Selectboard when Chris was hired had found it bizarre that the Personnel Committee would not even list as a finalist a local candidate with a higher licensure level.

Will said he felt this discussion needed to be continued to the next meeting. Hussain and Bob agreed.

In other business, the group decided to put off discussion of expenses related to the storm the previous week.

In answer to a query from Tinky, Hussain said that warrant articles had to be proposed 14 days before Annual Town Meeting.

The group briefly discussed the priorities list Natalie Blais and her aide, Corinne Coryat, had requested but decided to think about that list and discuss it at the next meeting.

There being no other business, the meeting was adjourned at 9:25 p.m.

Respectfully submitted, Tinky Weisblat, Gal Friday

Williams Cosby

Hussain Hamdan

Robert MacLean