

TOWN OF PALM BEACH

Office of the Town Clerk

REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE MEETING HELD ON JANUARY 12, 2012, AND CONTINUED ON JANUARY 23, 2012, AND JANUARY 24, 2012

I. CALL TO ORDER AND ROLL CALL

The meeting of the Administrative and Personnel Committee was called to order at 1:00 p.m. on Thursday, January 12, 2012, in the Town Council Chambers. On roll call, Chairman Richard M. Kleid and Committee Member David A. Rosow were present.

Attorney Isidro Garcia, Esq. represented Mr. Jason Weeks; Attorney Christine Hanley represented the Administrative and Personnel Committee; and Attorney Margaret Cooper represented Director of Public Safety Kirk Blouin and the Town of Palm Beach.

II. APPROVAL OF AGENDA

By motion of Committee Member Rosow, and seconded by Chairman Kleid, the Agenda was approved as printed.

All witnesses were sequestered and ordered not to discuss the case or any matters relating to the case while outside of the hearing.

III. PRESENTATION OF TOWN'S CASE

[MARGARET COOPER, ESQ. ON BEHALF OF KIRK BLOUIN, DIRECTOR OF PUBLIC SAFETY]

Town Clerk Susan Owens administered the oath to those providing testimony. The following witnesses were called:

- Danielle Olson, Human Resources Director
- Deputy Chief Darrel Donatto, Fire Rescue

Attorney Margaret Cooper gave her opening statements. In addition, she introduced Town Exhibits 1-7.

Attorney Garcia gave his opening statements. In addition, he introduced Appellant Exhibit 1.

The Administrative and Personnel Committee Meeting recessed at 6:20 p.m. on January 12, 2012, until 1:00 p.m. on January 23, 2012.

CALL TO ORDER AND ROLL CALL

The meeting of the Administrative and Personnel Committee was reconvened and called to order at 1:00 p.m. on January 23, 2012, in the Town Council Chambers. On roll call, Chairman Richard M. Kleid and Committee Member David A. Rosow were present.

By motion of Committee Member Rosow, and seconded by Chairman Kleid, the Agenda was approved as printed.

All witnesses were sequestered and ordered not to discuss the case or any matters relating to the case while outside of the hearing.

Ms. Owens administered the oath to those providing testimony. The following witnesses were called:

- Deputy Chief Darrel Donatto, Fire Rescue (continued)
- Battalion Chief Pete Codispoti, Fire Rescue (represented by his Attorney, Thomas O'Connell)
- Kirk Blouin, Director of Public Safety

In addition, Town Exhibit 8, and Appellant Exhibits 2-3 were introduced.

IV. PRESENTATION OF JASON WEEKS' CASE

[ISIDRO GARCIA, ESQ. ON BEHALF OF JASON WEEKS, FIREFIGHTER/PARAMEDIC]

Ms. Owens administered the oath to those providing testimony. The following witness was called:

- Belinda Hardy, Office Manager

The Administrative and Personnel Committee Meeting recessed at 5:00 p.m. on January 23, 2012, until 10:07 a.m. on January 24, 2012.

CALL TO ORDER AND ROLL CALL

The meeting of the Administrative and Personnel Committee was reconvened and called to order at 10:07 a.m. on January 24, 2012, in the Town Council Chambers. On roll call, Chairman Richard M. Kleid and Committee Member David A. Rosow were present.

By motion of Committee Member Rosow, and seconded by Chairman Kleid, the Agenda was approved as printed.

1 All witnesses were sequestered and ordered not to discuss the case or any matters relating
2 to the case while outside of the hearing.

3
4 Ms. Owens administered the oath to those providing testimony. The following witnesses
5 were called:
6

- 7 • Jason Weeks, Firefighter/Paramedic
- 8 • Jay Boodheshwar, Director of Recreation and Special Projects
- 9 • Brian Lebrun, Driver/Engineer/Paramedic
- 10 • Tony Wallace, Firefighter/Paramedic
- 11 • Lt. George Ojea, Fire Rescue
- 12 • Danielle Olson, Director of Human Resources (recalled for further testimony)
- 13 • Peter B. Elwell, Town Manager
- 14 • Deputy Chief Darrel Donatto, Fire Rescue (recalled for further testimony)
- 15 • Kirk Blouin, Director of Public Safety (recalled for further testimony)
- 16

17 In addition, Town Exhibits 9-12, and Appellant Exhibits 4-7 were introduced.
18

19 **V. REBUTTAL BY TOWN**

20 [MARGARET COOPER, ESQ. ON BEHALF OF KIRK BLOUIN, DIRECTOR OF
21 PUBLIC SAFETY]
22

23 Ms. Cooper provided her summation to the Committee.
24

25 **VI. REBUTTAL BY JASON WEEKS**

26 [ISIDRO GARCIA, ESQ. ON BEHALF OF JASON WEEKS, FIREFIGHTER/
27 PARAMEDIC]
28

29 Mr. Garcia provided his summation to the Committee.
30

31 **VII. CONSIDERATION BY THE ADMINISTRATIVE AND PERSONNEL**
32 **COMMITTEE**
33

34 Chairman Kleid announced that the Committee would now go into Executive Session to
35 discuss their findings. He asked Attorney Hanley to explain what the charge of the
36 Committee is.
37

38 Ms. Hanley stated that the charge is threefold: (1) to determine whether there is
39 competent and substantial evidence to support that there was a violation of a policy,
40 practice, procedure, rule, or regulation regarding those items argued here today; (2) if the
41 Committee determines there to be competent and substantial evidence that the
42 violation(s) occurred, then it must determine whether or not the discipline was
43 appropriate for the violation(s); and, (3) to make a full recommendation to the Town
44 Council as to how the matter of Mr. Weeks will be resolved.
45

1 Ms. Hanley stated for the record that there are four issues in front of this Committee,
2 whether or not Mr. Weeks (1) used Town equipment, resources, and time in the creation
3 of a pension website; (2) violated Town policy when he diverted a crew at the Publix
4 Shopping Center in West Palm Beach to grocery shop and failed to timely report
5 treatment that was rendered to a civilian at Publix; (3) breached his duty to report
6 violations of policy, procedure, or practice when he learned from his subordinate, Dale
7 Corbin, that Corbin had called in sick when he was in fact out of state; and (4) breached
8 his duty to report complaints of harassment and retaliation to management for
9 investigation, when Lieutenant Joe Sekula, made such complaints to him.

10
11 Chairman Kleid asked Ms. Olson for the pay differentials of the Battalion Chief,
12 Lieutenant/Paramedic, Driver/Engineer/Paramedic, and Firefighter/Paramedic positions.
13 Ms. Olson responded that the pay scale was: Battalion Chief-\$104,093,
14 Lieutenant/Paramedic-\$99,136, Driver/Engineer/Paramedic-\$88,146, and Firefighter/
15 Paramedic-\$82,043. A demotion to Lieutenant would be a reduction of \$4,957. A
16 demotion to a Driver/Engineer/Paramedic would be a reduction of \$15,947. A demotion
17 to a Firefighter/Paramedic would be a reduction of \$22,050.

18
19 Committee Member Rosow noted that Mr. Weeks was a very lucky man. In the civilian
20 world, he would not have a Bill of Rights or a hearing, and he would have been dealt with
21 very quickly by his employer. In referring to his time in the military, he stated that he
22 learned an awful lot about responsibility, leadership, and authority. It helped make him
23 the success he is today. He asked Mr. Weeks to recall how lucky he was that he was able
24 to go through these proceedings. Actions have consequences. With authority comes
25 responsibility. To lead 23 men requires leadership and discipline. Our founding father,
26 George Washington, knew how to motivate men, command them, and make certain they
27 all knew he was their leader and not their best friend. Leadership can be very, very
28 lonely. Some who aspire to leadership fail because they cannot transition from, for
29 example, the president of the local union to a commander of a ship of 23 men and all the
30 required responsibilities.

31
32 Committee Member Rosow stated that he believes there is competent and substantial
33 evidence that Mr. Weeks failed in the first three issues before the committee today. He
34 did not hear enough testimony to render a decision on the last issue, regarding Lieutenant
35 Joe Sekula. He would uphold the demotion. Discipline is always painful. The secondary
36 discipline of placing Mr. Weeks on a 240 hour unpaid suspension might seem excessive
37 to some; but, where and when do we draw the line between accepting authority, and the
38 pain that comes with it, and the perks that come with it, and leaving responsibility by the
39 wayside. He found Mr. Weeks's testimony to be, in many instances, evasive. The audio
40 from the interview with Deputy Chief Donatto was damning. He felt that Mr. Weeks has
41 had many opportunities to come clean during this investigation; but, instead, he has
42 deferred and deflected. He stated to Mr. Weeks and his counsel that they have put many
43 employees on trial in these past three days, and that was not appropriate or right. He
44 stated that, if he is still on this committee and investigations and subsequent disciplinary
45 action comes against any of those others, he will then listen and rule on those actions. He
46 is not going to rule on the actions of others today who are not a part of this disciplinary

1 action. Therefore, he is supportive of the decision to suspend Mr. Weeks for 240 hours
2 without pay, as well as the demotion.

3
4 Chairman Kleid stated that he knows from personal experience in the private sector that
5 at times the relationship between management and employees is blurred, and that
6 personal friendship may be at stake. He also recognizes that a person in a management
7 position must represent, on town time, management's position and must obey the
8 promulgated rules. He also knows that fire rescue employees have a special relationship
9 because they are dependent for their safety on the actions of their fellow firefighters, and
10 because they live together in a work atmosphere for extended periods of time; however,
11 that is not an excuse in his mind for not obeying and enforcing town rules. He stated that
12 he is sympathetic to the position of employees of this town who are seeing their future
13 pension benefits eroded. He knows that the Town Council position on pensions has a
14 human element. In reading and listening to the evidence presented, he feels that other
15 high ranking fire rescue staff were sympathetic to the pension website and did
16 surreptitiously submit material for it and did voice, in public, non-management positions.
17 However, in his opinion, none rose to the severity of Mr. Weeks's involvement, namely
18 the use of town equipment and town time to create and build a non-management website,
19 and the fact that he put in for, and received, overtime pay for such work. He does not feel
20 that this hearing has anything to do with free speech, or the First Amendment, or the
21 contents of the website. It has to do with utilizing a managerial position, town
22 equipment, and town time.

23
24 Chairman Kleid stated that, based upon competent, substantial, and credible evidence, he
25 finds that Mr. Weeks did use the town's computer on town time to create and build a non-
26 management oriented pension website, which in fact was paid for by the union and thus
27 has to be considered a non-managerial site, and that Mr. Weeks did put in for, and
28 receive, overtime pay for working on the website from his home. He found that, as a
29 matter of law, that you cannot use the defense that you were only following the direction
30 of a superior officer. Mr. Weeks should have known in good conscience that, as a
31 manager, such direction was contrary to the position taken by the Town. He found that
32 the putting on of the dancing elves containing the heads of Town Council members was
33 sophomoric, but understandable as a holiday prank, and gave no credence to it in his
34 decision. He found that Mr. Weeks broke town rules and exhibited non-managerial
35 attributes when he went to Publix and rendered the medical assistance without clearing it
36 with his superior at the time. He also found credible, competent, and substantial evidence
37 that Mr. Weeks's conversation with Mr. Corbin, which unearthed a breach of the Town's
38 sick leave policy, should have been reported. He felt that the issue regarding Joe
39 Sekula's harassment complaint had some probative evidence, but it did not rise to a
40 discipline matter as far as he was concerned. He further found that all these
41 transgressions, taken cumulatively, displayed a lack of a sense of responsibility as to the
42 duties of a manager. He found that on most of the allegations there was substantial and
43 credible evidence; however, unlike Mr. Rosow, he felt that the suspension was an
44 unnecessary disciplinary matter. He believes that being demoted from a managerial
45 position to the lowest ranked fireman, with a concurrent loss of pay, severe enough
46 discipline and would recommend that Mr. Weeks not be suspended.

THE TOWN OF PALM BEACH
ADMINISTRATIVE AND PERSONNEL COMMITTEE FINDINGS:

On January 12, 2012, January 23, 2012, and January 24, 2012, the Town of Palm Beach's Administrative and Personnel Committee ("Committee") met and conducted a hearing pursuant to Town of Palm Beach Code of Ordinances, Chapter 82, Article III for the purpose of resolving the grievance filed by Jason Weeks on October 26, 2011, regarding his demotion and suspension.

The four charges are: whether or not Mr. Weeks (1) used town equipment, resources, and time in the creation of a pension website; (2) violated town policy when he diverted a crew at the Publix Shopping Center in West Palm Beach to grocery shop and failed to timely report treatment that was rendered to a civilian at Publix; (3) breached his duty to report violations of policy, procedure, or practice when he learned from his subordinate, Dale Corbin, that Corbin had called in sick when he was in fact out of state; and (4) breached his duty to report complaints of harassment and retaliation to management for investigation, when Joe Sekula made such complaints to him.

Having met and considered the evidence presented at the hearing, as well as the arguments of Counsel, the Committee makes the following findings and recommendations:

Charge No. 1 - Use of town equipment, resources, and time in the creation of a pension website

The Committee finds that Mr. Weeks did use town equipment, resources, and time in the creation of a pension website, based upon the following competent and substantial evidence:

1. Mr. Weeks's own admission that he spent approximately five hours on the pension website, using town time and equipment; and,
2. Mr. Week's receipt of overtime pay for said work.

Charge No. 2 – Diversion of a crew at the Publix Shopping Center in West Palm Beach to grocery shop and failure to timely report treatment that was rendered to a civilian at Publix

The Committee finds that Mr. Weeks did divert a crew at the Publix Shopping Center in West Palm Beach to grocery shop and failed to timely report treatment that was rendered to a civilian at Publix, based upon the following competent and substantial evidence:

1. Mr. Weeks's own admission that he took his crew to Publix and that they provided medical assistance to a Publix employee;
2. Testimony from Battalion Chief Codispoti that Mr. Weeks told him about the situation; and,

3. The e-mail sent to Deputy Chief Donatto documenting the situation.

Charge No. 3 – Breach of duty to report violations of policy, procedure, or practice when he learned from his subordinate, Dale Corbin, that Corbin had called in sick when he was in fact out of state

The Committee finds that Mr. Weeks did breach his duty to report violations of policy, procedure, or practice when he learned from his subordinate, Dale Corbin, that Corbin had called in sick when he was in fact out of state, based upon the following competent and substantial evidence:

1. Mr. Weeks's own admission that Dale Corbin had called him stating that he had called in sick when he was in fact out of state, and that he did not report this transgression to his superiors.

Charge No. 4 – Breach of duty to report complaints of harassment and retaliation to management for investigation, when Joe Sekula made such complaints to him

The Committee did not find competent and substantial evidence that Mr. Weeks failed to report complaints of harassment and retaliation to management for investigation, when Joe Sekula made such complaints to him.

THE TOWN OF PALM BEACH
ADMINISTRATIVE AND PERSONNEL COMMITTEE RECOMMENDATIONS:

- A. Based upon these findings, Committee Member Rosow concluded that there was just cause for the demotion and the 240 hour unpaid suspension of Mr. Weeks.

Committee Member Rosow recommends that the Town Council affirm Chief Blouin's decision to demote Mr. Weeks from Battalion Chief to Firefighter/Paramedic, and to suspend him for 240 hours without pay.

- B. Based upon these findings, Chairman Kleid concluded that there was just cause for the demotion of Mr. Weeks. He further concluded that being demoted from a managerial position to the lowest ranked fireman, with a concurrent loss of pay, was severe enough discipline, and that the suspension was not necessary.

Chairman Kleid recommends that the Town Council affirm Chief Blouin's decision to demote Mr. Weeks from Battalion Chief to Firefighter/Paramedic.

Chairman Kleid recommends that the Town Council not affirm Chief Blouin's decision to suspend Mr. Weeks for 240 hours without pay.

Committee Member Rosow stated for the record that these findings and recommendations will go before the full Town Council on February 16, 2012. He stated

1 that the Town Council has the authority to uphold either of these recommendations, or
2 approve an alternate course of action.
3

4 Ms. Cooper reminded the Committee that the Circuit Court will require a written order in
5 the event this case is appealed. Ms. Hanley stated that she will have the order prepared
6 by February 3, 2012, so that it can be included in the Town Council's agenda backup.
7

8 Ms. Owens confirmed that the audio recordings of these proceedings will be placed on
9 the Town's website, and that copies of the recordings will be put on CD and provided to
10 the Town Council and the parties' Counsels in advance of the February 16, 2012, Council
11 meeting.
12

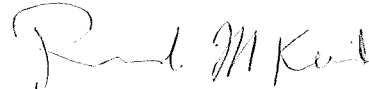
13 **VIII. ANY OTHER MATTERS**
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15 There were none.
16

17 **IX. ADJOURNMENT**
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19 There being no further business, the Administrative and Personnel Committee Meeting of
20 January 12, 2012, with continuances to January 23, 2012, and January 24, 2012, was
21 concluded at 10:36 p.m., on January 24, 2012.
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23
24

APPROVED:

25 
26 _____
27 Richard M. Kleid
28 Chairman
29