



TOWN OF PALM BEACH

Office of the Town Clerk

REPORT OF THE ADMINISTRATIVE AND PERSONNEL COMMITTEE PRELIMINARY HEARING #2 OF SCOTT DUQUETTE APPEAL

I. CALL TO ORDER AND ROLL CALL

The Hearing was called to order at 1:00 p.m. on Tuesday, October 2, 2012, in the Town Council Chambers. On roll call, all Committee Members were found to be present.

II. APPROVAL OF AGENDA

Motion was made by Committee Member Rosow, and seconded by Chairman Kleid, to approve the Agenda, as printed. On roll call, the motion carried unanimously.

III. PRELIMINARY HEARING INCLUDING:

A. REVIEW, CONSIDERATION AND DELIBERATIONS REGARDING MATTERS AND OBJECTIONS RAISED IN DUQUETTE'S PRE HEARING BRIEF AND TOWN'S RESPONSE

Chairman Kleid expressed concern over both parties' submission of documents after the original brief from the Appellant and the rebuttal from the Appellee had been filed. Between the original filings and the subsequent responses and rebuttals, additional issues were raised. He stated that the intent of the Administrative and Personnel Committee (APC) at the last hearing was for one brief and one rebuttal to be filed.

APC Attorney Kilbride stated that the Committee has the discretion to consider the subsequent documents or not. Both parties have the right to raise issues at the pre-hearing or the evidentiary hearing.

Chairman Kleid and Committee Member Rosow concurred that the APC should consider all of the documents filed, and that a time limit should be set for oral arguments.

Committee Member Rosow asked Attorney Kilbride to identify the issues to be considered for members of the public.

1 Attorney Kilbride stated that the issues before the APC are the following:

- 2 1. Whether the recusal of the Grievance Resolution Board (GRB) was
- 3 appropriate due to Town Manager Elwell serving as the Chair of that
- 4 Board
- 5
- 6 2. Whether recusal of the GRB violated Mr. Duquette's rights
- 7
- 8 3. Whether the Town of Palm Beach was retaliating against Mr. Duquette
- 9 in response to the independent investigation of six EOC complaints
- 10
- 11 4. Whether the recommended disciplinary action was appropriate
- 12
- 13 5. Whether the witnesses in the investigation were required to provide
- 14 their testimony under oath
- 15
- 16 6. Whether the final report issued by Peter Sampo needed to be verified
- 17

18 **Motion was made by Committee Member Rosow, and seconded by Chairman Kleid, to:**

- 19 **1. Join and deny Issues I and II**
- 20
- 21 **2. Consider Issues III and IV during the evidentiary hearing**
- 22

23 **On roll call, the motion carried unanimously.**

24 **Motion was made by Committee Member Rosow, and seconded by Chairman Kleid, to**
25 **deny Issues V and VI as the APC has determined that they are not required. On roll call,**
26 **the motion carried unanimously.**

27 **B. REVIEW OF PROCEDURAL RULES FOR HEARING, AS REQUIRED**

28 Attorney Kilbride suggested to the APC that both parties be reminded to avoid
29 irrelevant or repetitive witnesses, and that counsel for both parties work together
30 to agree to stipulations that will expedite the hearing.

31 Chairman Kleid concurred and added that each party shall be required to
32 exchange a List of Witnesses, with a summary of the nature of their testimony.

33 The APC and both parties agreed to schedule the hearing for the week of January
34 28, 2013.

35 Chairman Kleid noted that Town Attorney Randolph has opined that the Town
36 Council has the authority to issue subpoenas on behalf of the APC, should they be
37 required.

38 Committee Member Rosow stated that the issue regarding subpoenas will be on
39 next week's Town Council meeting agenda.

40 **It was the consensus of the APC to establish the following procedural rules for the hearing:**

- 1 1. The Parties shall exchange a List of Witnesses with a summary of the nature of
2 their testimony on or before December 3, 2012.
- 3 2. The Parties shall exchange a List of all Exhibits they intend to offer into evidence
4 on or before January 17, 2013. Witnesses or Exhibits Lists not listed or
5 exchanged in accordance with this schedule will not be considered or permitted
6 into evidence, unless good cause is shown.
- 7 3. The Parties are requested to make a good faith effort to meet prior to the final
8 hearing to stipulate to facts and the admission of documents, in an effort to
9 abbreviate the time needed for the hearing.
- 10 4. The final evidentiary hearing is set in this matter to begin on January 28, 2013,
11 at 9:00a.m. at Town Hall.
- 12 5. The Parties will each be given thirty-five (35) minutes for opening statements
13 and two (2) hours for a closing statement.

14
15 Committee Member Rosow stated that the Town will present their case first, then the
16 appellant, and time will be allotted for rebuttals. Chairman Kleid concurred.

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18 C. OTHER PRELIMINARY MATTERS AS DEEMED APPROPRIATE BY THE
19 COMMITTEE

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21 Attorney Kaplan requested that a secondary preliminary hearing be set to discuss
22 the issue of whether or not the Police Officers' Bill of Rights was violated.

23
24 **It was the consensus of the APC to deny the request.**

25
26 **IV. ADJOURNMENT**

27
28 There being no further business, the Administrative and Personnel Committee Meeting of
29 Tuesday, October 2, 2012, was adjourned at 4:54 p.m.

30
31 APPROVED:

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33 

34 Richard M. Kleid
35 Chairman

36
37 ATTEST:

38
39 
40 Susan A. Owens, MMC
41 Town Clerk

42
43 11/15/12
44 Date
45