

**Stowe Selectboard, Liquor Commission & Water/Sewer Commission Meeting
Monday August 9, 2021**

Present:

Selectboard Members: Lisa Hagerty, William Adams, Nick Donza, Jo Sabel Courtney, Willie Noyes
In Person attendees: Marina Meerburg, Catherine Crawley, Rick Weinstein, George Gay, Sarah Henshaw, Emily Rosenbaum, Harry Shepard, Don Hull

Call to Order

Chair Billy Adams called the meeting to order at 5:34pm.

Approve the Agenda

On a motion by Ms. Lisa Hagerty, seconded by Mr. Willie Noyes, the Board approved the agenda as presented, with one additional item added to the Liquor Consent Items.

Consent Agenda

1. Minutes of 7/26/21 Meeting
2. NENSA Invitational Special Event Application
3. Liquor Consent Items

On a motion by Ms. Jo Sabel Courtney, seconded by Mr. Noyes, the Board approved the Consent Agenda with the one additional item on the Liquor Consent Items.

Personnel Policy Update Discussion – Stowe Personnel Attorney

Chair Adams opened the discussion by introducing Kerin Stackpole, Stowe's Personnel Attorney, and noting that the discussion would be related to public employment law and Stowe's Personnel Policies, particularly pertaining to sexual misconduct. He noted that this was not a time to discuss any specific personnel matters.

Ms. Stackpole began by noting that there are employment laws, and there are labor laws, which protect those covered by union contracts. Currently the Town of Stowe has a union agreement with the Stowe Police Association and with the International Brotherhood of Electrical Workers (IBEW). Ms. Stackpole said that the current agreements and personnel policy in place in Stowe are pretty good. She explained "just cause" as specific rules that require fair, impartial investigation, fair application of rules, consideration of mitigating factors and appropriate fair punishment.

She also explained that there are different laws pertaining to employee misconduct with another employee, versus employee misconduct with the public. She explained that sexual harassment laws pertain to unwelcome harassment in the workplace, but that other misconduct with the public would -may be subject to other regulations. The Board discussed what could be done to change policies to give victims more confidence in reporting. Ms. Stackpole encouraged education, training and setting a tone on what is and is not acceptable behavior, and also mentioned some places have anonymous reporting services and engaging external investigations. She also noted that during investigations it is common to look at the credibility of both sides of the claim and any potential witnesses but encouraged a culture of listening and thoroughly investigating all claims. Additionally, Ms. Stackpole explained that employees, even those accused of misconduct, do have rights for due process and when investigating allegations, it is required that their entire performance record be looked at, along with the circumstances and any mitigating factors. Ms. Emily Rosenbaum spoke to the extreme emotional toll felt by survivors who are asked to relive their trauma in order to come forward. Mr. Safford noted that he appreciated the courage it took to come forward and that the Town would take any reports seriously and give it a thorough investigation, and that he understood the importance of making sure the victims felt safe.

Mr. Noyes asked if it would be appropriate to consider an HR position for the Town, which Ms. Stackpole indicated would not be uncommon in a town our size to assist the Town Manager with training, resources and recommendations for best practices.

Mr. Donza asked Ms. Stackpole to explain the role the Selectboard holds in the hiring and firing of employees. Ms. Stackpole explained that the Town of Stowe charter is set up with the Town Manager form of government, which gives the Town Manager the -day-to-day operations of the town- policies and ordinances in accordance with policies adopted by the Selectboard. The Selectboard maintains a contract with the Town Manager, but all other employees are not under contract and follow either a union agreement or the Town of Stowe Personnel Policies. Mr. Safford indicated that when hiring Department Heads - the Town Charter requires him to notify the Selectboard seven days' notice with ability to override the decision. If they do so, the Manager shall submit an alternative choice. The Selectboard discussed if Department Heads should be put under employment contracts which would require Selectboard ratification. Ms. Stackpole indicated that individual contracts is not common but could be done. Employment contracts offer some - control, but also may inhibit recruitment and retention, lack the flexibility of the Town Manager to build a team as they see fit, and may not be well received by current employees. Ms. Stackpole indicated that it is not recommended for elected officials to get involved in personnel decisions, rather they can hold the Town Manager accountable for managing the personnel. The Board discussed "at will" employment. Ms. Stackpole indicated under union contracts and covered by specific state laws (i.e. Police) have specific rights including just cause termination and progressive discipline. Even those employees falling outside of union agreements may have employment rights established through policy which diminishes the ability to terminate the ability to terminate employee" at will," such as progressive discipline. Mr. Safford indicated this provides some protection from arbitrary termination which helps attract and maintain a qualified workforce. Ms. Sarah Henshaw asked about a Zero Tolerance policy for sexual misconduct, which Ms. Stackpole indicated would be challenging to have with just cause termination as that requires an investigation to include mitigating factors and would be difficult to get a union to agree to. Ms. Marina Meerburg asked if a separate policy could be created for Department Heads (who are not covered by a union) to set an example for other employees and include zero tolerance for sexual harassment and misconduct. Ms. Stackpole encouraged trainings and setting an expectation of accountability relating to all sexual misconduct.

Ms. Hagerty asked if a statement such as "Sexual activity of any kind is prohibited while on duty" could be added to Town policies and Ms. Stackpole agreed they could be included as part of standards for workplace behavior.

Mr. George Gay asked if employees could be reassigned to other positions within the Town if there are allegations of misconduct, which Mr. Safford indicated -it is possible to reassign employees. Mr. Gay also asked if legally the Selectboard was excluded from personnel decisions, which Ms. Stackpole indicated that having the Selectboard get involved with personnel decisions would be inconsistent with the Town of Stowe Charter, the labor union contracts, and against best practices, which would be a legal vulnerability. She also indicated one of the roles of the Selectboard is to serve as a judiciary board for employees to appeal to if they disagree with a personnel decision made by the Town Manager, and if they were to get involved in personnel decisions that could impact their ability to stay neutral. Finally, Mr. Gay asked if the position of Fire Chief was one the Selectboard could choose to abolish, which Ms. Stackpole said would require further investigation to determine.

Police Chief Hull spoke to the General Orders which govern Police staff and noted that they are often above and beyond other policies in the Town. He explained these evolve constantly with best practices, and require new training whenever updates are made. He explained in recent years policies have been put in place that require a duty to report if another officer suspects misconduct, and that failure to report can make the officer liable. These policies were not in place 10 years ago and cannot be retroactively applied, however they do indicate a culture and expectation shift in recent years towards more accountability. He also noted that officers are now required to wear body cameras during any interaction with the public and

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that they staff two officers on the night shift with supervisors available at least some of the shift to give more checks - on the officers activity. He said the Town currently doesn't have tracking devices on police cruisers, but he is looking into that.

Overall, Ms. Stackpole indicated that she felt the Town policies had good structure, but there was always room for improvement and should be re-evaluated every few years. Chair Adams stated that the Selectboard owed it to the Community to look at the current policies and work to address any issues and make changes to them as appropriate, understanding the parameters in which the Town must work. He asked Ms. Stackpole to evaluate the Town policies and make recommended changes and bring them back to the Board for consideration.

Manager's Report

There was nothing on the Manager's Report to discuss.

On a motion by Mr. Noyes, seconded by Ms. Courtney, the Board went into executive session to discuss personnel at 8:00pm to include Town Attorney Kerin Stackpole via Zoom.

The Board came out of executive session at 9:36pm

There being no further business, Chair Adams adjourned the meeting at 9:37pm.

Minutes respectfully submitted by Abigail Sweetser.