

Electric Light Department

Town of South Hadley

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Board of Commissioners Minutes of the Meeting of November 5, 2015

Present: Anne Awad, Dan Whitford, Kurt Schenker

Anne Awad convened the meeting at 6:00 PM. She stated that this meeting was called to make a statement to the community about recent events at South Hadley Electric Light Department (SHELD). She read a prepared statement (attached to minutes).

On October 23, 2015, individual Board members learned of the lawsuit filed in federal court by a SHELD employee alleging workplace violence and patterns of intimidation and seeking damages from SHELD, the Board, and the Town of South Hadley, and naming two individuals, the Manager and an Engineer.

On October 26, 2016, the Chair met with legal counsel for advice in responding to the lawsuit from the Board perspective. No other Board members were present or aware that the Chair was seeking counsel. Legal counsel advised that it was of critical importance in suits of this type to "secure the records" from any perception of tampering. The Courts will look to see if emails or document records were destroyed and considers it an obligation to demonstrate that we took action to prevent access to files. Legal counsel advised that the two individuals named in the suit be placed on paid leave immediately in order to secure the records and to prevent any suspicion from developing that records were mishandled. Legal counsel advised that there were provisions in the Massachusetts Open Meeting Law for emergency meetings and she recommended that we call such a meeting for that day. With assistance from Town Hall, an emergency Board meeting was posted for the afternoon of 10/26/2015. The Manager and an Attorney, William Welch (who is retained for SHELD business but who represented the Manager at this meeting), were in attendance. Following an Executive Session, the Board returned to open session at that meeting to report that they had taken a unanimous vote to place the Manager and the Engineer on paid administrative leave to demonstrate that we are protecting the records. The Board stressed that this action was not disciplinary for either individual placed on leave and it provided protection to them as well as to SHELD from any potential allegations of record tampering.

Since that day, the Board has taken steps to support SHELD and to ensure consistent delivery of services to the ratepayers. We have done the following:

- Engineering services have been contracted for work on Planning Board projects under review.


- Engineering backup for our linestaff has been secured from Holyoke Gas and Electric
- The Collective Bargaining agreement has been reviewed with union leadership to ensure compliance with the Agreement.
- Town Hall has provided human resources, payroll, and administrative guidance
- Mr. Doerpholz has provided a written list of pending projects and initiatives.

The Board thanks SHELD staff for their consistent and high quality work and their response to this challenge. The Board has asked staff to support each other and to maintain SHELD services.

Public Comments: Several members of the public were in attendance and had specific questions about the length of the administrative leave, coverage, and the fiber optic project and also a concern that the Board deliberately "got rid of" the Manager. The Chair reported that the leave is indeterminate and depends on the securing of records and a review of records to identify relevant items for defense of the lawsuit. The leave protects the employees placed on leave from allegations of record tampering, common in suits of this type and will demonstrate to the Court that SHELD moved quickly to secure files. Coverage is with current staff, augmented by contract engineering, donated engineering services from a neighboring municipal utility, MMWEC technical assistance (with on call coverage, mutual assistance, and power source purchase), and more, as needed. Regarding fiber optics, the Committee met last week and held a SKYPE call with Axia project leader. The Fiber Optic Committee will report to the Board in December or January. Regarding the accusation that the Board "got rid of" the Manager, the Board Chair stated that the placement on leave was non-disciplinary and that the Board members, individually and as a Board, had not had an intention to remove the Manager unless an annual review process revealed a complete inability of the Board and the manager to work together. If, after securing the records and reviewing the charges in the lawsuit, the situation allows for return of the Manager and the Engineer, the Board will act to do so.

Mr. Schenker moved and Mr. Whitford seconded a motion to go into Executive Session for the purpose of exploring litigation strategy because to do so in Open Session would be harmful to SHELD in this situation and to not return to Open Session. By roll call vote (Schenker-aye, Whitford-aye, Awad-aye), the Board voted to go into Executive Session.

The Meeting adjourned to Executive Session at 6:45 PM.


Clerk

Report to the Community
Electric Light Board of South Hadley

On October 23rd, the members of the Board of Commissioners individually and separately learned that a lawsuit was filed in federal court. The suit names numerous parties including the legal entity, SHELD, and the Board of Commissioners. As the Chair of the Board, I met with counsel after learning of the suit. No other member of the Board of Commissioners participated in that meeting.

Having learned of legal obligations, an emergency meeting of the Board was called on October 26 to discuss legal strategy related to the federal court action, receive legal advice, and discuss and vote on strategy related to the same.

With the assistance of counsel, the Board of Commissioners is taking necessary steps to comply with obligations triggered by a legal action.

No individual has been disciplined by the Board of Commissioners. No individual is under a disciplinary review or suspension. In addition, and certainly paramount to the public interest, permit me to address the topic of the day-to-day operations of SHELD. The Board wants to assure ratepayers and the community that we have thoroughly reviewed all aspects of SHELD operation and have taken action to support the engineering and operational systems. We have temporarily engaged a private engineering firm to review Planning Department projects and we have temporarily engaged engineering services from another municipal utility company to back up our linepeople. We have reviewed the collective bargaining agreement to make sure we are complying with all provisions. We have engaged with Town Hall and Town Administration and wish to express appreciation for its support of the SHELD employees. In addition, Mr. Doerpholz has provided the Board of Commissioners written communications regarding pending SHELD matters and projects.

We appreciate the understanding of the Town residents as the Board is fully engaged in supporting the SHELD services.