

Electric Light Department

Town of South Hadley

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**SOUTH HADLEY ELECTRIC LIGHT DEPARTMENT
BOARD OF COMMISSIONERS MEETING
SELECTBOARD MEETING ROOM, TOWN HALL
DECEMBER 7, 2016 AT 6:30 P.M.**

Present for Board: Anne Awad, John Hine, Gregory Dubreuil, Vernon Blodgett, Kurt Schenker

Present for Staff: Paul Byrne – Interim Co-Manager

Ms. Awad convened the Open Session at 6:33 PM.

Public Comment:

There was none.

Statement:

Ms. Awad made a statement, on behalf of the Board. The Board regrets being found in violation of the Open Meeting Law five times over the last two years. The Board has worked closely with legal counsel to try and ensure compliance. The Attorney General's Office did not invalidate any actions taken by the Board or assess any sanctions or damages. The Attorney General's Office refused to rule on reinstatement of Mr. Doerpholz to his former position. The Board is committed to SHELLED, supporting the staff, a new Manager and representing the Ratepayers. The complete statement will be attached to the minutes.

Discussion regarding General Manager Position:

Ms. Awad noted that the public interview of the final candidate, Sean Fitzgerald, was held last week. Now the Board must decide if they will begin to negotiate with him for the General Manager position.

Each Board member commented briefly, stating the reasons they thought Mr. Fitzgerald would be a good choice for the Manager position. Mr. Schenker felt that his fiber experience would be valuable. They all supported moving forward with the process to negotiate with him.

Mr. Blodgett mentioned that he did receive a few emails from Ratepayers who saw the interview. They had positive things to say about Mr. Fitzgerald becoming General Manager.

Ms. Awad said a formal vote needed to be taken before he is offered the position.

On a motion made by Mr. Schenker and seconded by Mr. Hine, it was unanimously

VOTED: To enter into negotiations with Sean Fitzgerald as Manager of SHEL D.

The Board then decided to have two members make the offer and draft an agreement, if the offer is accepted. It would come back to the Board, for a discussion, in public, to move forward. It was decided that Ms. Awad and Mr. Blodgett would continue to represent the Board, for consistency, for this part of the process. Mr. Scott Fry, the Search Consultant, will also continue to help.

Annual Bid Recaps and Approval:

The Board reviewed the Annual Bid Recap sheets for the Wire and Cable, Line Materials, Meters and Transformers. These bids are for equipment that SHEL D may need to purchase next year. SHEL D is legally required, as a Public entity, to go out to bid on these items.

Mr. Byrne explained briefly that SHEL D orders from the vendor with the lowest price on each item. If there is an alternative manufacturer proposed by the vendor and they are the low bidder, the Engineer would be consulted at the time of purchase to see if it would work as well. If the alternative will work, then SHEL D will order it. If not, the next lowest bid will be reviewed. SHEL D may not order half of these items each year but they are inventory items, we have previously used, so they are on the bid list.

After the Board asked Mr. Byrne a few questions, the votes were taken.

For Wire and Cable, on a motion made by Mr. Hine and seconded by Mr. Schenker, it was unanimously

VOTED: To approve the purchase of SHEL D's wire and cable requirements for 2017 to the lowest responsible bidder for each individual item based on economic analysis.

For Line Material, on a motion made by Mr. Hine and seconded by Mr. Schenker, it was unanimously

VOTED: To approve the purchase of SHEL D's line material requirements for 2017 to the lowest responsible bidder for each individual item based on economic analysis.

For Meters, on a motion made by Mr. Hine and seconded by Mr. Schenker, it was unanimously

VOTED: To approve the purchase of SHEL D's meter requirements for 2017 to the lowest responsible bidder for each individual item based on economic analysis.

For Transformers, on a motion made by Mr. Hine and seconded by Mr. Schenker, it was unanimously

VOTED: To approve the purchase of SHEL D's transformer requirements for 2017 to the lowest responsible bidder for each individual item based on economic analysis.

Correspondence:

Plains School wrote a thank you letter to Mr. Byrne for the electrical safety presentation presented by Mr. Ray Gouley at the school. Mr. Gouley is a consultant for SHELD who does these presentations at the schools and the senior center to raise safety awareness in the community. The presentations are always well received.

Other items that came to the attention of the Chair after posting of this meeting:

None

Discuss request to release Executive Session minutes for 1/20/16, 2/9/16, 2/25/16, 6/2/16:

The Attorney General has directed releasing the Executive Session minutes for January 20, February 9, February 25 and June 2. These minutes relate to continuing, or not continuing, the contract with Mr. Doerpholz as General Manager. Since that matter has passed, these minutes can be released after a Board vote.

On a motion made by Mr. Hine and seconded by Mr. Blodgett, it was unanimously

VOTED: To release the Executive Session minutes of January 20, February 9, February 25 and June 2, 2016.

These minutes will be released and posted to the website.

Mr. Dubreuil inquired what we have remaining for Executive Session minutes, that are not yet released, and if there is a system set up to continue to review these for release.

Ms. Awad agreed that there needs to be a review of any remaining minutes that were previously approved, but not released. They should be released once they will no longer adversely affect any litigation or negotiations discussed at those meetings.

Approve Minutes – October 27 and November 16 Open Sessions:

October 27, 2016 minutes:

Mr. Blodgett listed a couple of edits.

On a motion made by Mr. Blodgett and seconded by Mr. Schenker, it was unanimously

VOTED: To approve the minutes October 27, 2016, as amended.

November 16, 2016 minutes:

Mr. Blodgett listed a couple of edits.

On a motion made by Mr. Schenker and seconded by Mr. Hine, it was unanimously

VOTED: To approve the minutes November 16, 2016, as amended.

Executive Session – To discuss contract negotiation with non-union personnel and/or to discuss litigation strategy:

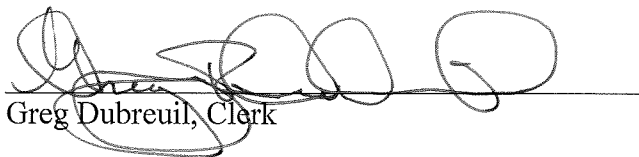
Ms. Awad asked for a motion to go to Executive Session after clarifying that motions to go into Executive Sessions must be stated with more detail.

On a motion by Mr. Hine and seconded by Mr. Blodgett it was

VOTED: to go into Executive Session for the purpose of discussing litigation strategy related to the Hampshire Superior Court lawsuit 1680CV00080, regarding breach of contract, and Not to return to open session.

A roll call vote was taken: Dubreuil-aye, Schenker-aye, Blodgett-aye, Awad-aye, Hine-aye. The vote was unanimous to go to Executive Session.

The Open Session ended at 7:16 P.M.



Greg Dubreuil, Clerk

Approved: January 26, 2017

The SHELD Board regrets that we were found in violation of aspects of the Open Meeting Law. This is a new Board, only two members have served longer than 20 months and 3 members were not on the Board during two of the three complaints filed against us by former Manager, Wayne Doerpholz. An article in today's Gazette states that the Board has been found in violation for 5 times over 2 years. 2 of those findings relate to the previous Board. It is ironic that most of us who were elected to this Board ran on a platform of transparency. The Board has worked closely with legal counsel throughout this time in order to try to ensure compliance. It makes it particularly difficult to find that, even with sincere effort, you have failed to be transparent enough.

It is important to note that the Attorney General's office did not invalidate any actions taken by the Board. They did not assess sanctions or damages. They chastised us for not providing sufficient notice in posting and for not providing enough detail about the topics to be discussed in Executive Session. **However, they did note that our procedure for entering Executive Session was proper, that the discussions within Executive Sessions were appropriate, and that our minutes accurately reflected those discussions.** The Attorney General's Office refused to rule on reinstatement of Mr. Doerpholz to his former position. It has never happened that a state oversight agency has made such a ruling. Legal counsel has provided us with the following guidance: "There is no legal authority that the Division of Open Government has to reinstate an employee because of an open meeting law violation." If a court found that an employee was unfairly discharged, monetary damages might be assessed.

There is a dilemma for any Board. We used insufficient posting time for a meeting on October 26 and suffered a violation...but legal counsel instructed us to do so due to the importance of demonstrating to the court that we moved quickly to "protect the records" when the federal lawsuit was filed. We will have to wait several years for the case to crawl through the courts but our action will be shown to have protected the records and thus provided everything needed to investigate the allegations in the suit. Again, we were found for insufficient posting time in June when we were determined to avoid Massachusetts Wage Law violations as we ended the employment of Mr. Doerpholz, guided by both our attorneys and by the Office of the Inspector General for the Commonwealth.

Finally, allegations were made in the complaints that we dealt with disciplinary matters during Executive Sessions. The Attorney General's review of our minutes is reassuring and demonstrates that we did not discuss disciplinary issues relating to Mr. Doerpholz.

This Board is committed to SHELD and to supporting the incredible and professional people who work there and to representing ratepayers as energy prices are negotiated and costs of operation assessed. We are committed to ethical behavior and we recommit to transparency. We are determined to support our new Manager who needs to come in and focus on modernizing SHELD and improving operations. Executive Sessions will continue to be necessary as we are confronted by a several lawsuits and it will be important to plan our defense in order to protect ratepayers.

We thank the ratepayers and the community for the steady support we have felt as we navigate ourselves through this challenging situation.