



TOWN OF EDGARTOWN
PERSONNEL BOARD
HUMAN RESOURCE DEPARTMENT

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Town of Edgartown | Personnel Board
70 Main St, Edgartown, MA
June 27, 2023 | 2:00 PM - 3:00PM

Meeting Minutes

Board Members: Suzanne Cioffi, Chairman, Kelly McCracken, Haley Krauss
Staff: Maria Ventura, Interim Human Resource Director, James Hagerty, Town Administrator

Call to Order

Meeting commenced at 8:31am

Public member advised the Board that they will be recording the meeting.

Personnel

1. Workers Comp/FMLA Report (**See Attachment A**)
2. Vacant Positions (**See Attachment B**)
3. New Hires (**See Attachment C**)

Town Administrator Update-

James Hagerty reported that there was a contract signed with the Human Resource Consultant, Deb Radway. The first task will be an HR Audit for every department. Her contract will be starting in July with assisting virtually and in person. The consultant will attend Personnel Board meetings as needed.

New Business

Animal Control-

Letter dated 6/20/2023 was provided to the Personnel Board from Kim Andrade the Animal Control Officer (see Attachment D). James Hagerty advised that he does not have the unilateral ability to approve past overtime. Mr. Hagerty stated that Ms. Andrade needs to provide documentation stating the nature of the overtime for the days in question: December 24, January 29-30, April 9-10, April 16-17, April 22-23. Documentation will in turn be reconciled and if owed than the hours will be paid. Mr. Hagerty stated that there needs to be clarification in writing of working hours and on what is exigent for overtime. Clarification was made after

inquiry that Ms. Andrade's direct supervisor, the Town Administrator, never told her that she was not able to put in for overtime.

Discussion ensued on why hours were not previously submitted on the time cards and regarding overtime and straight time with exempt and non-exempt employees.

Suzanne Cioffi inquired as to how the weekend shifts are currently being covered with the open Assistant Animal Control Officer position. Ms. Andrade advised that the one Assistant Animal Control Officer is covering weekend shifts unless she needs time off due to illness or traveling. Second position has been advertised. Ms. Cioffi clarified that going forward if the assistant cannot cover a weekend Ms. Andrade will need to notify her direct supervisor.

Motion was made to for the James Hagerty to move forward to resolve this matter after reviewing proper documentation with Town Accountant, Amy Tierney, and Interim Human Resource Director.

Motion to move by K. McCracken, Second by H. Krauss

Vote: Motion passed with all in favor

Ms. Andrade stated that her phone is on at all times and that she has not taken a lunch break since beginning her employment and is requesting compensation (See Attachment D). Ms. Andrade believes she cannot shut her phone off if she is the only person working in case an emergency comes in. Ms. Andrade will not shut her phone off unless someone puts it in writing that she is able to. Discussion regarding what constitutes an emergency ensued and paid lunch breaks ensued. Ms. Andrade stated she believes that Animal Control Officers are considered first responders. Ms. Cioffi noted that the accepted job description from the Collins Center does not identify Animal Control as a first responder.

Mr. Hagerty advised that he is Ms. Andrade's supervisor. The current policy is that Town employees are paid half hour lunch breaks. Ms. Cioffi confirmed with Mr. Hagerty that he never told Ms. Andrade that she cannot have a lunch break. Mr. Hagerty has never told any employee that they cannot have a lunch break. Ms. Andrade stated that her assistants have lunch breaks. Mr. Hagerty said if Ms. Andrade has any questions regarding how the animal control department is to operate she should go through Mr. Hagerty.

Motion was made for the James Hagerty to move forward with the Human Resource consultant to review the letter and current lunch policy and move forward with a solution.

Motion to move by K. McCracken, Second by H. Krauss

Mr. Hagerty, Ms. Andrade's direct supervisor, has never had a discussion with her regarding lunch breaks and has never told her that she cannot have a lunch break. The plan implemented going forward is that Mr. Hagerty, as Ms. Andrade supervisor, will tell Ms. Andrade when she can shut her phone off and take a break. Ms. Andrade will notify the Communication Center that she will be signing off for a lunch break.

Vote: Motion passed with all in favor

Human Resource Longevity-

Suzanne Cioffi stated that in September the former Human Resource Director announced that she had a new assistant and the benefits that would come through with that the Personnel Board requested further clarification regarding longevity and how that works. Ms. Cioffi was not sure if that issue was ever addressed. Discussion regarding another employee that this may arise for. A section from the approved September 9, 2023 meeting minutes was presented by Ms. Ventura and read by Kelly McCracken:

- (c) If an employee is rehired within one year of termination, after completion of a period equal to the length of termination, or the probationary period, whichever is longer, the employee will be reinstated with no loss of seniority with regards to benefits, longevity pay and personnel records.

Ms. McCracken confirmed that that is how she remembers the discussion going. Ms. McCracken stated it is the Bylaws and she feels it is appropriate to provide Ms. Ventura with the longevity. Clarification was made that the Bylaw states if employee is hired within one year. Discussion of when the longevity starts ensued and was determined that longevity is based on length of service since the employee started with the Town.

Discussion regarding the need to update the Personnel Bylaws and the priority for FY24 to be moving forward with Personnel Policy Manual.

Performance Evaluations-

Annual performance evaluations for all employees need to reviewed and signed off by the Personnel Board Chair. It was decided that as Chair of the Personnel Board, Suzanne Cioffi will review evaluations on Thursday June 29th in the Human Resource Department.

Review/Approval of Minutes –

January 9, 2023 and May 25, 2023 meeting minutes tabled

Next meeting dates:

Tuesday July 25th 8:30am

Tuesday August 22nd or 29th 8:30am (to be determined at next meeting)

Adjournment- Meeting adjourned at 9:40 AM.

Minutes reviewed and accepted:

Chair/Member

Date: _____

Clerk: MV

Attachment A

FMLA/WORKERS COMP as of 6/22/2023

WORKERS COMP

School 8/24/2021

FMLA

Wastewater 6/14/2023

Attachment B

Vacant Positions as of 6/22/2023

Department	Position	Hours	
Animal Control	Assistant Animal Control Officer	16 every other week	
Highway	Heavy Equipment Operator/Laborer	40	
Historic District	Historic District Commission Assistant	26	
Library	Library Assistant	18	
Police	Police Officer	40	
Wastewater	Junior Plant Operator/Plant Operator	40	
Water	Junior Operator/Operator I	40	
Pending Job Offers or Interviews			
Planning Board	Planning Board Assistant	40	Interviews 6/27

Attachment C

Full Time Hires as of 1/1/2023

Last Name	First Name	Department	Position	Start Date
Difo	Jelisa	Library	Department Assistant	1/9/2023
Zghibarta	Cristina	Wastewater	Department Assistant	2/3/2023
Dacey	John	Police	Police Officer	3/1/2023
deOliveira	Chrissy	Building	Department Assistant	3/6/2023
Downing	Connor	Board of Health	Health Agent	3/12/2023
Jackson	Wayne	Water Department	Junior Operator	3/20/2023
McMahon	Chris	Council on Aging	Cook	4/6/2023
Pringle	Julia	Shellfish	Deputy Shellfish Warden	5/15/2023
DeLeon	Shanette	Affordable Housing	Affordable Housing Manager	5/30/2023
Avery	Devon	Wastewater	Junior Operator	6/7/2023
Godfrey	Emily	Board of Health	Assistant	6/26/2023
Mulinare	Juliet	Selectboard	Facilities Manager	7/10/2023

Attachment D

James,

6/ 20, 2023

Per your request :

The following are a list of weekends in which I had to cover because there is / was no one else to do so. According to the town employee by-laws page 13 (d) anyone Department Head who must work due to inadequate manpower shall receive, in addition to regular earnings, straight time based on their calculated hourly rate.

December 24, 2022 8hrs

January 29-30, 2023 16hrs

April 9-10th, 2023 16hrs

April 16-17th, 2023 16hrs

April 22-23rd , 2023 16 hrs

Total of 72 hours at \$34.63 = \$2,493.36

FLSA:

The FLSA requires that all covered nonexempt employees be paid overtime pay at no less than time and one-half their regular rates of pay for all hours worked in excess of 40 in a workweek.

By statutory definition the term "employ" includes "to suffer or permit to work." The workweek ordinarily includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed workplace. "Workday", in general, means the period between the time on any particular day when such employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities. The workday may therefore be longer than the employee's scheduled shift, hours, tour of duty, or production line time.

On-Call Time:

An employee who is required to remain on call on the employer's premises is working while "on call." An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call. Additional constraints on the employee's freedom could require this time to be compensated.

FLSA does require that covered, nonexempt workers must be paid not less than time and one-half the employee's regular rate for time worked over 40 hours in a workweek.

Does on-call time count for overtime?

Hours spent on-site (on the employer's premises), on-call status count as regular hours worked and also are counted toward overtime (if the total hours worked that workweek exceed 40). However, a different base pay rate, not lower than the federal minimum wage, may be established for on-site, on-call hours.

<https://employment.laws.com/massachusetts-labor-laws-breaks>

According to Massachusetts labor laws workers must get paid during the meal period when:

They are allowed or required to remain on duty

A worker must be paid- according to Massachusetts labor laws breaks- if the individual is required to be on -call at the business or workplace

A worker must be paid - according to Massachusetts labor laws breaks - for meal time, if the worker is called back to duty during the meal period even though they are often not on call during the meal period

FLSA Rest and Meal Periods:

Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating. Workers in Massachusetts have the right to at least a 30 minute meal break or each 6 hours worked in a calendar day. During their meal break, workers must be free of all duties and free to leave the workplace.

Employees may agree to work through their meal breaks, but they must get paid. If, at the request of the employer, a worker agrees to work or stay at the workplace during the meal break, the worker must get paid for that time.

MGL c 149 section 100 : Hours of work without interval for meals; duration; violation of statute.

<https://www.dol.gov/agencies/whd/faq>

<https://www.dol.gov/agencies/whd/state/meal-breaks>

Therefore:

In addition I will be requesting payment for 1 hour over time per day worked for lunch breaks.

7.5 hours a week for 52 weeks at \$ 34.63 = 390 hours total \$13,505.70 for FY22 and FY23

Total amount owed for lunch breaks 780 hours at \$34.63 = \$27,011.40

Thank you,
Kim Andrade
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Edgartown Animal Control
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