Reichelt 11 Coolidge Rd. Wayland, MA 01778

IN HAND

September 3, 2013

To the Board of Selectmen:

In response to the termination of the Contract of Town Administrator Fred Turkington at the Board of Selectmen Meeting on August 26, 2013, I am submitting the following Open Meeting Law Complaint.

My complaint states that the agenda for the August 26 Selectmen Meeting was not sufficiently specific as to properly inform the public of the content of the meeting. Further, evidence suggests that that this lack of specificity was intentional.

I have included the Massachusetts Open Meeting Law Complaint Form, a letter detailing the complaint, and attachments including the text of the motion, a listing of relevant information sources, and an unofficial transcript of the meeting that I created.

I am submitting this document to the Board of Selectmen's Office on Tuesday, September 3.

I would like to speak with the Selectmen about this complaint at the next Board of Selectmen Meeting (scheduled for September 9). Can you please include this topic on the agenda (planning on at least 15 minutes) toward the start of the meeting?

I look forward to your timely response.

Sincerely,

Kimberly S Reichelt

Cc: Massachusetts Attorney General (via email only)

OPEN MEETING LAW COMPLAINT FORM



Office of the Attorney General One Ashburton Place Boston, MA 02108

Please note that all fields are required unless otherwise noted.

| Your Contact Information: | | | | | | | |
|---|--|--|--|--|--|--|--|
| First Name: Kimberly Last Name: Reichelt | | | | | | | |
| Address: 11 Coolidge Rd | | | | | | | |
| City: Wayland State: MA Zip Code: 01778 | | | | | | | |
| Phone Number: 5083587621 Ext | | | | | | | |
| Email: kreichelt@alum.mit.edu | | | | | | | |
| Organization or Media Affiliation (if any): | | | | | | | |
| Are you filing the complaint in your capacity as an individual, representative of an organization, or media? (For statistical purposes only) | | | | | | | |
| Individual Organization Media | | | | | | | |
| | | | | | | | |
| Public Body that is the subject of this complaint: | | | | | | | |
| City/Town County Regional/District State | | | | | | | |
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|---|--|--|--|----------------------------|---|--|--|--|
| Name of Public Body (including city/ town, county or region, if applicable): | | | | Wayland Board of Selectmen | | | | |
| Specific person(s), if any, you allege committed the violation: | | | Chairman Doug Leard and Vice-Chairman Tony Boschetto | | | | | |
| Date of alleged violation: August 26, 2013 | | | | | | | | |

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

The Wayland Board of Selectmen ("BOS" or "Board") intentionally violated the Open Meeting Law, G.L. c 30A Sections 18-25. The BOS's meeting notice failed to contain a listing of topics that was sufficiently specific to reasonably advise members of the public of the anticipated topics for discussion. The failure to be specific was willful misconduct on the part of Chair Doug Leard who resisited repeated requests from Selectman Steve Correia to provide more specificity in advance of the meeting, and Vice-Chair Tony Boschetto who requested the inadequately specified item to be placed on the agenda.

Please see attached for complete complaint.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Please see attached. In brief summary:

Appropriate responses would be for the Chair and Vice-Chair to:

- * acknowledge that the described actions violate the OML
- * acknowledge that the violation was intentional
- * pay a significant fine
- agree to comply with OML in the future and attend OML training

Review, sign, and submit your complaint

Read this important notice and sign your complaint.

Under most circumstances your complaint will be considered a public record and be available to any member of the public upon request.

I understand that when I submit this complaint the Attorney General's Office cannot give me legal advice and cannot act as my personal lawyer.

I certify that the information contained on this form is true to the best of my knowledge.

Signed:

September 3, 2013 Date:

For Use By Public Body Date Received by Public Body: For Use By AGO Date Received by AGO:

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Open Meeting Law Complaint Summary

The Wayland Board of Selectmen ("BOS" or "Board") intentionally violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The BOS's meeting notice failed to contain a listing of topics that was sufficiently specific to reasonably advise members of the public of the anticipated topics for discussion. The failure to be specific was willful misconduct on the part of Chairman Doug Leard who resisted repeated requests from Selectman Steve Correia to provide more specificity in advance of the meeting by amending the agenda, and Vice Chair Tony Boschetto who requested the item be placed on the agenda.

The Violation

The Open Meeting Law requires that meetings of a public body be properly noticed, that they list all topics that the chair reasonably anticipates will be discussed, and that listing of topics **"shall have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting."** 940 CMR 29.03(I)(b); OML 2011-15.1

On the agenda for the Monday, August 26, 2013 BOS meeting was an item listed as: "Review the Town Administrator's Employment Agreement and Job Description." When that item came up for discussion, rather than the Board reviewing the listed item, BOS Vice Chair Tony Boschetto immediately distributed a lengthy written motion (attached as Attachment I) to terminate the contract of the Town Administrator Fred Turkington. The listed agenda item contained no reference to the firing of Town Administrator Fred Turkington and this was insufficient to alert the public to the discussion.

The agenda item was not only insufficient as to inform the public, it was not even specific enough to inform the other selectmen. One of the selectmen, Steve Correia, had repeatedly (in advance, and again at the start of the meeting) sought clarification of the agenda item and asked its purpose, but was given no response. Similarly, the Town Administrator himself tried numerous times to get more information on the agenda item, but was unable to get either Chairman Leard or Vice Chair Boschetto to provide any.

Why was so this so difficult to anticipate? This was the first time the Administrator's contract or employment agreement has appeared on any Board agenda or discussion since the Town Administrator's last performance evaluation in March 2012. While there is an agenda item at every Selectmen's meeting that is titled "Selectman Reports and Concerns", neither the Town Administrator's performance or contract has ever been discussed since that time. There has been no public communication nor, upon information and belief, anything in his personnel file related to his performance presented to the Selectmen. The firing of the Town Administrator, Fred Turkington, with eight years of tenure and consistent stellar reviews could not have been anticipated by the public without a specific agenda item. It is also useful to note that during the ensuing discussion of this agenda item, there was no review of the employment agreement (other than pointers to the existence of a clause for termination without cause) and there was no discussion of the job description.

In addition, the motion (Attachment I) included an action to appoint an Interim Town Administrator. There was no public notice of this, separate, action, and the public was not alerted that there would be any discussion of or decision made about the selection of an Interim Town Administrator. This decision is not trivial as Wayland's Town Bylaws (§ 60-4) allow an Acting Town Administrator to be appointed for a period "not to exceed six months, but such appointment may be extended by an additional two months by majority vote of the Board of Selectmen."

Links to the agenda, video of the meeting, the employment agreement are included in Attachment II and available as links online here: <u>http://waylandenews.com/town-administrator-firing-links/</u>

The Lack of Specificity Appears Willful

The agenda item was non-specific, and it seems clear that the lack of specificity was intentional. When, again, Selectmen Steve Correia repeatedly asked Chair Leard for an explanation of the purpose of the agenda item, he got no response - both in advance of the meeting, and at the very start of the meeting when the Chair reviewed the agenda. (Please see the video or transcript of the video, both posted at the link above.)

While three of the Selectmen, Chairman Leard, Vice Chair Boschetto and Edward Collins, indicated no surprise at the content of the agenda item, the other two, Steve Correia and Joe Nolan, were outraged. They exclaimed that they felt completely blindsided, and stated they had no idea this was the purpose of the topic. If the whole Board themselves could not have anticipated it, how could the public have been expected to?

The intentional effort to obscure the true purpose of the agenda item is clear. At least Leard and Boschetto intentionally sought to prevent the public from having notice of a major personnel decision, removing Wayland's Town Administrator. They also sought to prevent other Board members, Steve Correia and Joe Nolan, who would likely not support the firing motion, from having an opportunity to prepare.

Desired Action

Given the willful nature of the egregious misconduct, the Attorney General should find the following:

1. Determine that the Board, due to the actions of BOS Chair Leard and Vice-Chair Boschetto, violated the Open Meeting Law by purposefully failing to provide the requested specificity regarding the agenda item to the public; 2. Determine that the Board's OML violation was intentional;

3. Determine that Chairman Doug Leard and Vice Chair Tony Boschetto are assessed the maximum fine allowable pursuant to G.L. c. 30A, section 23(c).

Next, I request that the Attorney General take the following remedial actions:

- 1. Order the BOS to immediately and in the future, comply with the Open Meeting Law, G.L. c. 30A, sections 18-25; and
- 2. Order attendance at training on the Open Meeting Law and certification to the Attorney General's office that Board members Leard and Boschetto have attended that training. The trainings are to be conducted by an attorney or organization familiar with the requirements of the Law and approved by the Attorney General's office. This training is ordered in addition to any future remedial actions ordered as a result of any hearing in this matter.

ATTACHMENT I: The motion to terminate the Town Administrator made by Vice Chair Tony Boschetto

August 26, 2013

I move that the BOS terminate the employment contract of Fredric E. Turkington, Jr. as Town Administrator effective immediately, August 26,2013 without cause under the terms of section VII(B) of said contract. He shall be immediately relieved of all duties and the Assistant Town Administrator shall serve as Interim Town Administrator on all matters until the Board of Selectmen appoint an interim or permanent replacement and that the BOS shall schedule a meeting with all Department Heads for purpose of creating an interim management structure.

A written copy of this motion as approved by the Board of Selectmen shall be presented by hand to Mr. Turkington this evening on August 26, 2013 and serve as written notice in accordance with the terms of section VII(B) of said contract.

Mr. Turkington shall meet with a representative from the Board of Selectman and the Assistant Town Administrator at 9AM on August 27, 2013 in the Town Administrator's office for the purpose of returning all Town assets in his possession and collection of all personal belongings.

All compensation and benefits afforded Mr. Turkington under the terms of the agreement shall be paid in a normal and customary matter.

APPROVED BY

Doug Leard - Yes Tony Boscetto - Yes Ed Collins - Yes

Joe Nolan – NAY Steve Correia – Not present

ATTACHMENT II:

Information Sources:

Video broadcast of the August 26 Meeting of the Board of Selectmen: <u>http://waycamtv.pegcentral.com/player.php?video=c23f6939491a3db71ef3b6d2d655</u> <u>2e70</u>

- Relevant comments at the start of the meeting begin at timestamp 2:06
- The agenda item discussion begins at timestamp 27:25

Transcript of the August 26 Meeting of the Board of Selectmen (and attached as Appendix II) <u>http://www.waylandenews.com/forum/showthread.php?514-Transcript-of-Board-of-Selectmen-Meeting-8-26-13-termination-of-Fred-Turkington</u>

Agenda for the August 26 Meeting of the Board of Selectmen: http://www.wayland.ma.us/Pages/WaylandMA MeetingsCal/S01B6F520-01B838D0.0/BOSAgenda08262013.pdf

Employment Agreement for the Wayland Town Administrator http://www.wayland.ma.us/Pages/WaylandMA HR/TA2014.pdf

ATTACHMENT III: Unofficial Transcript of the Meeting

The complainant developed this transcript from the video of the meeting posted on WayCAM.tv (note: numbers in brackets at the start of each line refer to the time mark in the video)

[2:06] Steve: Mr. Chairman, before we start Public Comment, could we just clarify #4, the purpose. I'm just curious, "Review Town Administrator's Employment Agreement and Job Description." I asked three times since I got the agenda what the purpose of that line item is. I'm not sure why it appeared this evening. I didn't get a response. Just wondering what's the purpose of that line item this evening?

[2:31] Doug: First of all, I sent you a response.

[2:34] Steve: No, you didn't.

[2:35] Doug: I did. I sent you a text message, and I told you to call Tony instead of-

[2:38] Steve: I asked you-

[2:40] Doug: Let me finish, I said Tony is the one that proposed this. If you have any questions, speak to Tony.

[2:43] Steve: I asked the Chair to get back to me on what the purpose of the agenda item. You do the agenda, Doug. You approved it. I asked you what the purpose of the item is. You put it on there.

[2:57] Doug: The purpose is to review Tom Administrator's Employment Agreement and Job Description

[3:01] Steve: That is the review item. What is the purpose? What are we going to be accomplishing? His contract isn't up. What is the purpose of it? What are we going to be discussing?

[3:08] Doug: We'll talk about it when we get to that point.

[3:10] Steve: I want to know now what is the purpose so I that can at least think about it as we come to it.

[3:15] Doug: You're taking it out of order.

[3:16] Steve: No, I'm asking. You just went over the agenda, and I am asking what is the purpose of the agenda item? I asked three times.

[3:26] Doug: It is to discuss the Town Administrator Employment Agreement. Tony has proposed it. If you want to ask Tony.

[3:30] Steve: No, I'm asking you, Doug.

[3:32] Doug: I just told you. I think we're all set.

[3:34] Steve: You put it on the agenda.

[3:36] Doug: OK, Public comment.

[3:36] Steve: I'd just like to make a public notice that I asked three times what the purpose of this was, and I didn't get a response.

[27:25] Doug: Shall we do Town Administrator Employment Agreement and Job Description?

[27:30] Tony: Thank you, Mr. Chairman. I appreciate you putting this on the agenda. And I had the time to look closely at the contract, and Mr. Chairman, I have a motion. [----- and passing out papers] I gave a lot of thought to this, before I drafted this motion, and I think it's the right direction for the town, and once I make the motion, we can discuss it. I move, Sir, that the Board of -

[28:04] Steve: Excuse me, this is unbelievable. I asked three times, Mr. Chairman, what the purpose of this was. How can I talk about this motion without being prepared?

[28:15] Doug: This is the first time I've seen it. So-

[28:17] Steve: Mr. Chairman, you should have asked.

[28:18] Doug: And I told you, I'm not going to get into -

[28:20] Steve: You're the Chair who is responsible for the agenda.

[28:24] Joe: If a board member asks to have a discussion of something-- There's been a lot of talk in town about transparency, and this doesn't seem like a very transparent [---]. It seems essentially if you prepared a document, why wasn't that document shared with the members of the board? Why couldn't I have looked at this this afternoon, and contemplated what was going on?

[28:42] Steve: How can we have any discussion--

[28:45] Tony: By the open meeting law that's not a viable approach, the appropriate approach under Mass Laws is to have an agenda, make a motion to discuss the motion, and part of that discussion --

[28:56] Joe: Well, I would like to suggest that this motion be tabled until we can have an opportunity to consider it

[29:04] Tony: Joe, no one has seconded my motion yet, so why don't I make my motion, and if it doesn't get seconded then we can discuss the appropriate way to dispose of it.

[29:13] Joe: Go ahead.

[29:14] Tony: Sir, I move that the Board of Selectmen terminate the employment contract of Frederic E. Turkington Jr. as Town Administrator effective immediately, August 26, 2013 without cause under the terms of Section 7B of said contract. He shall be immediately relieved of all duties, and the Assistant Town Administrator shall serve as Interim Town Administrator in all matters until the Board of Selectmen appoint a permanent replacement, and the Board of Selectmen shall schedule a meeting with all the department heads with the purpose of creating interim management structure. A written copy of this motion is approved by the Board of Selectmen and presented by hand to Mr. Turkington this evening on August 26, 2013, and serves as written notice of the terms of Section 7B of said contract. Mr. Turkington shall meet with a representative of the Board of Selectmen and Assistant Town Administrator at 9am on August 27, 2013 in the Town Administrator's office for the purpose of returning all Town assets in his possession and collecting his personal belongings. All compensation and benefits accorded Mr. Turkington under the terms of this agreement shall be paid to Mr. Turkington.

[30:13] Doug: All right, we have the motion. Do we have a second to discuss?

[30:17] Ed: I'll second.

[30:20] Doug: OK, we're open for discussion.

[30:22] Tony: Can I speak to my motion?

[30:23] Doug: Yes, please do.

[30:24] Tony: Thank you, Mr. Chairman, as I've said, I've given a lot of thought over the last few months about the direction of the Town and the Town Administrator's contract, and in the direction we want to move as a Town for our [inaudible] and I believe that this motion made tonight is in the best interest of our citizens and in the best interest of Mr. Turkington. I think it's time that the Town move in a new direction and part of that new direction we need new leadership, and in fairness to Mr. Turkington, I believe that this approach is the most fair to him, and provides him with the best opportunity to find gainful employment, and the greatest opportunity for him under the contract. And that's why I come forth tonight. In a sense of fairness to this Town and to Mr. Turkington, I believe this action is the most fair to all parties.

[31:19] Joe: Why? Just because you think we want to go in a new direction?

[31:22] Tony: That is correct, Sir.

[31:22] Joe: So we have a contract employee who we've contracted with for a period of time, who has - you're not claiming he's done anything illegal. You're not claiming - you need -- You're exposing the town to substantial severance. If you want to take a director, or the administrator, and want to have a conversation as a board, this is where I get to the transparency thing, then bring it up, and say "let's have a talk." Don't come in here and throw out "I want to fire Fred." And if you the three of you go with him and do this without a constructive dialogue including the department [] and an analysis of how he [], I would be shocked and embarrassed. It's not right. Now, I might vote to agree with you in the long-run, but have the dialogue. Have the guts, you shouldn't have the guts to fire the guy. What is the severance in this contract?

[32:23] Steve: I don't know. I can't vote on this -- I was [asking about] the packages.

[32:29] Tony (to Steve): you signed the contract.

[32:31] Steve: Yes, but I have no way of preparing for this evening.

[32:36] Joe: We weren't told, let's discuss this.

[32:37] Steve: First off, the way we run meetings --

[32:40] Doug: First of all, let Joe finish what he had to say.

[32:44] Joe: I think it's - any member is well within their rights to make a motion. But Mr. Chairman, I'm very surprised that are allowing - this is -- I'm sure Fred feels like it's an ambush. If you want to have a constructive dialog, about the future of our Town Administrator who's worked for this town for how long, Fred?

[33:00] Fred: Eight years.

[33:01] Joe: Eight years. You're going to come up here, and this is something you've been - how long have you been on this board?

[33:05] Tony: []

[33:06] Joe: Four months? And you're just, "this is the way the Town is and we're going to fire him." Doesn't matter how much we have to pay in additional taxes to wipe out his contract. Doesn't matter - you can't have a constructive dialogue with Fred and say, "you know we want to move, you know, why as Chairman wouldn't you sit down with the Town Administrator before you pull something like this and say--

[33:28] Doug: I didn't -

[33:28] Joe: before it was allowed? and talk and say, "hey look it, we want to move in a different direction, Fred." The rest of us, my understanding was that he was a subject of review, and that's why I was very surprised to see a talk of "the contract". I don't think this is a talk of the contract. You might as well just put on the agenda, "motion to fire Town Administrator". And I'm just shocked. This isn't transparent. This isn't a dialogue of the board, weighing the pros and cons of the administrator's performance, the cost of getting out of the contract, the timeliness of hiring a new Town Administrator, and what the benefits of that are to the Town. This is just an ambush. I think it's unfortunate. I've never seen- I'm embarrassed.

[34:08] Doug: Joe, I would say that just looking at the contact, there is termination for just - for cause and termination without cause. There is for just cause, which means, I guess you gotta come up with some sort of reasoning. And without cause the paragraph that's in the contract says the Board may terminate Turkington in this agreement anytime without cause by giving Turkington written notice, and it goes on and on.

[34:36] Joe: OK, so what's the penalty for that? What does that cost, do you happen to know Fred contemplating

[34:45] Doug: it's right there.

[34:46] Joe: what is it?

[34:47] Tony: Twelve months' salary.

[34:48] Joe: Twelve months' salary?! What do you make a year Fred?

[34:50] Fred: 150,000.

[34:51] Joe: \$150,000! We're not... We're just going to make a motion?!

[34:52] Tony: Right.

[34:53] Joe: \$150,000 of the taxpayers money without having a discussion?! [Steve trying to talk as well]

[34:59] Doug: let one person talk at a time.

[35:01] Joe: I'll yield for now. I'm not done.

[35:03] Steve: This is exactly the reason why as Chair setting up the agenda, you should have found out what this agenda item was all about. So that we could prepare, so that we could prepare a discussion of this issue this evening. You should have found out that that Mr. B- that Tony was going to be making a motion this evening to terminate Fred. This is the first time, talk about lack of transparency -- the way this board has always worked has, we have selectmen's reports,

concerns and issues, and then we put those on the agenda and we discuss them. Mr. Turkington has been Town Administrator of this Town for eight years, I think we owe a little bit more to him than to have a discussion more than five minutes of his employment contract and terminating it, especially after he's had eight years of stellar performance reviews. There's no reason for this to be terminated. Stellar performance reviews. As a matter of fact, of all the ones I've looked at, all the ones I've been involved with, I've very rarely seen any place where he has not done his job. I think this totally lacks transparency, of where it's coming from, and lacks anybody from anywhere else in the town from being able to respond to it. So we're just going to terminate his employment contract without having heard from anybody else in this town regarding his contract. Talk abut lack of transparency? That's what you believe in, Tony, that's what you believe in. This is the type of transparency -- You campaigned on that, that this Town needed more transparency.

[36:35] Tony: I'm very comfortable with the motion I made here tonight and the process I followed.

[36:37] Joe: And you're comfortable with the paying 12 months severance? Rather than paying the experienced administrator for a period of time- you know, maybe if you talked to him like -- are you comfortable with []

[36:52] Tony: As I said, I've looked at the contract, and this is in the best in-

[36:54] Joe: Look at Fred. Look at the person. You can't just say this is someone who's given eight years of service to the Town -

[36:59] Steve: I'm not sure I want to be on a board that lacks this type of transparency and discussion. I really don't. I think it's quite incredible that we haven't had any discussion on the Town Administrator's performance, and you're firing him.

[37:17] Tony: Let me re-characterize the statement you just made. I'm making a motion to terminate this contract without cause, which provides him the best opportunity to find gainful employment and the most opportunities for benefits. It'll make this an easiest transition for Fred, and it's in the best interest of Fred and the best interest of the Town.

[37:38] Joe: Well, I certainly don't think it's in the best interest of the Town. I could never vote for this. I mean, Fred's been here eight years, and he's the head of the Massachusetts Municipal Association of Managers for the whole state. His 300 plus peers have elected him to lead that organization. I'm sure he'll have no problem finding a job. But I think it's an abomination that we sit up here and take a public servant -

[37:57] Steve: I'm not sitting through this. This is bull. Talk about lack of transparency. I am sick of this.

[38:05] Doug: Make a record that Steve Correia left at 7:42

[38:11] Joe: To finish my point, I just think that this is rushed, I think it's contrived, I think it was preplanned out. I know that there was -- You know, I can count, and I understand politics. But come on, I also understand common decency, and the proper thing - I think it's a waste of Town money. If you want to make a transition, you do it over time. And I think that the right thing to do would be for the Chairman, or for the board to have an open discussion of the merits of this, rather than a motion just thrown out there. I'd like to, you know, contemplate-maybe look at some evidence and discuss it. I'm just shocked. I'm inclined to - you know, I don't blame Steve for walking out. I've never in all my years of public service seen such a -- you know, I was part of firing the DPW director. It was an extended process, and we deliberated over it, and we agreed though. This just seems -

[39:11] Doug: Joe, I just think that what you've said is - it's with cause and without cause, and I think that with-

[39:19] Joe: [-]

[39:20] Doug: With cause, I mean you start interviewing people, and start coming - and then you -I'm just looking at the language here. I guess if it's with cause you end up having to come up with reasonings why. But the contract as written -

[39:49] Joe: No one is questioning that this board has the ability to- The Town Administrator works at the will of the Board, and this Board, there are three members of the Board who are willing to take this motion without any deliberation and vote to terminate an employee, the Town Administrator, after eight years of service, I'd say, without having an extended dialogue. It certainly can happen, but it seems like there's a very interested crowd here, there doesn't seem to be any huge surprise that this was coming in some way, and frankly I think we should have had a discussion as a Board. As public servants, we owe more to the Town as elected officials to have a dialogue as to the pros and cons. Why don't we talk to the administrator about what we think he's done well or bad? And if you just think you want to move in another direction, you've got the votes. Go ahead and do it, guys. I won't be a party to it. I'll vote against it, and I honestly think it's insulting to the dedicated public servants, whether you want to vote him out or not - he's had eight years serving this town and it's an affront. I'm disgusted by it. To not even have a dialogue. So you've got your motion, you going to vote on it?

[40:42] Doug: We have a motion. Do we have any further discussion?

[40:44] Ed: No, I have nothing really to add to what's already been said. I understand the motion to be made under the provision of the agreement that Fred I presume participated in drafting that allows for termination without cause. I think if somebody exercises that provision the whole issue of discussing causes or possible causes or imagined causes, whatever you want to say is really irrelevant, so I think the real question is whether there should be a vote to terminate without cause. I think that's what the motion here is.

[41:27] Tony: Any debate or discussion on the merits puts both Fred in a bad position as well as us as a Town in a bad position with respect to making a motion without cause. If we want to make a motion without cause there should be no such discussion on the merits of his performance.

[41:47] Joe: How about the merits of making this decision to move in this direction? How about the merits of deciding as a town to incur the one-year's salary debt on our bottom line? To have the luxury of moving on another Town Ad- so you, you are comfortable saying "let's pay this guy a year's salary so we can get someone else in here right away?" So you can begin the process of getting someone else in here.

[42:12] Tony: That payment, that expense won't hit until we actually replace someone, and I don't believe, I believe that's a somewhat timely process to find a replacement, in which case that expense will probably last over time, in which case that won't actually have any impact on our budget.

[42:28] Joe: How can a contract in which you required to pay severance if you terminate somebody at will, why would you ever not have to pay that?

[42:39] Tony: the budget offset is, it would only cost the town additional money when we replace the position.

[42:44] Joe: So we don't have a Town Administrator. What about the value of going in to Town Meeting with any kind of semblance of -

[42:51] Tony: I have complete confidence in our Assistant Town Administrator, and I have complete confidence in our department heads for this town to function properly, and we will continue to move in the direction we need to move.

[43:05] Joe: I think this is... I don't blame Steve for walking out. But there's other business that I have to stay here for, but I completely understand - I feel like it. And I'll make that decision whether I want to come back, but I'll stay and do my business. I think this is an affront. I think this is an insult to Fred. Fred, I'm sorry that this board would attempt to make this kind of decision on your future without having the character to come up and talk to you directly about it, and have a dialogue about it. I'm sure - you're an adult and a gentleman, and you would have discussed, "ok, if we're moving in another direction..." there could have been a way to have done it amicably and probably saved the town a good amount of money, but this is just maximum exposure to the town, and a minimum of decency and courtesy. It's disgusting.

[43:57] Doug: I mean, I still believe that to discuss issues, there is a complete difference between discussing issues and go with cause opens up other potential cans of worms.

[44:17] Tony: And Joe, exactly for that purpose, because there's such a difficult process by which to have those open dialogues to make this process is exactly why there's such a high compensation for severance, it's because it is virtually impossible to terminate with cause and have that open dialogue.

[44:36] Joe: We've worked with other employees when we wanted to go in another direction, and we did it like gentlemen, and we gave them some time to find another job, and we worked through it and we did it the best way for them and for the Town, and we weren't exposed to the same amount of --- I just didn't imagine - I am shocked. You guys have the votes. You guys run the Town. If all three of you are going to vote to fire Fred without a public discussion of it, go ahead. I just won't be a party to it.

[45:01] Doug: All right, any other discussion?

[45:05] Doug: We have a motion, it's seconded. Let's take the votes. All in favor, say "aye"

[45:10] Ed and Tony: Aye

[45:19] Doug: I'll say "aye" too. I guess I, I was the one that hired Fred. I was on the Board when we hired Fred. This is one of the most difficult things I've ever done. And it's not comfortable for sure. And again this is without cause, but for what it's worth, I offer my services to write any letters of recommendation for myself anyway and as Chairman of the Board of Selectmen, if there's anything I can do to help, Fred, not that Fred needs my help, so, but uh, I,... Those opposed?

[46:12] Joe: I would record emphatically no.