

Aquinnah Public Library
Library Board of Trustees
Minutes – Thursday February 16, 2023

Meeting was held via zoom

Meeting convened at 1:36pm

Present: Kathie Olsen, Chair; Sophia Welch, Trustee; Marjorie Spitz, Trustee; Rosa Parker, Library Director

New Business:

Department of Revenue Legal Feedback: Meeting was called to discuss Marjorie’s recent conversation with Jim Crowley from the Department of Revenue (see attached memo submitted by Marjorie dated Feb 8, 2023). Marjorie read her notes from the conversation. Although Crowley could not give legal advice to Marjorie, he noted that the holiday pay practice (noted as benefit in the memo) “has occurred over time, a more casual application of regulations and a greater reliance on *custom* would be appropriate” and Crowley felt the Trustees could consult the Labor Relations Board for further guidance. Marjorie noted that the Treasurer’s responsibility is to input payroll as submitted and nothing beyond that. Trustees discussed drafting a bylaw change to acknowledge the Trustees power/authority of boards similar to that of Chilmark personnel bylaws and in the meantime, library employees should abide by the Personnel Committees decision to end the holiday pay practice. Sophia noted that she was not sure she would be supportive of pursuing an amendment to the personnel bylaws that would reflect the holiday time practice. Furthermore, she wasn’t sure if it would be supported at town meeting. Trustees discussed the process of getting articles on the warrant: Select Board need to approve otherwise it would need to be submitted in the petition format. Trustees again concurred that they need legal guidance on the matter. Trustees asked that Marjorie draft language to discuss with town counsel (clarity on lines of authority over library personnel between Trustees, Select Board and Library Director). With the upcoming Monday holiday, Rosa asked how she should proceed and whether to close the library the following Tuesday as the Trustees had previously voted on (January 26 meeting). She noted that every other town follows this holiday procedure, and the employees are paid. Trustees were unsure as to how to proceed and didn’t want to put the library employees in a situation where they may not receive payment for that day. Trustees decided to “stand down” on the matter and wait until meeting with Town Counsel. Rosa will work a regular day February 21 following the holiday on Monday. Kathie motioned to rescind the vote taken on January 26; Sophia seconded; vote 2-0-1, motion passed; Marjorie abstained.

Adjournment: 2:46pm

Respectfully submitted, Sophia Welch, Trustee

Conversation with the DOR Legal Dept. James Crowley Thursday, Feb. 9, 2023 Considerations

Specific to Library employees:

1. It has been *the custom and policy in place* for benefited library employees to be paid for all the holidays granted to other Town employees notwithstanding the fact that their work schedules may not fall on the actual day of the holiday nor on the official day of observance if that differs. Both library employees currently being paid for all holidays were hired years ago under the terms that they would receive this pay.

This practice has existed at least since the 1980's and did continue without interruption until _____.

At that time, our Library Director was told by the Treasurer that this *custom* did not conform to the current Personnel By-Law. After some discussion, she was told that the practice could continue through January, 2023, but no holiday after that time would be honored for pay unless the benefited employee would ordinarily be expected to work on that day.

Our town is small with less than 1,000 residents and less than 500 voters and it operates with no Charter; therefore, Mr. Crowley felt that, in this instance, since the benefit has accrued over time to library personnel, a more casual application of regulations and a greater reliance on *custom* would be appropriate. (He also felt that we could consult the Labor Relations Board for further support of this position if we have the time.)

2. I told him it was our intention to request wording in the by-law which would support our holiday policy. But that we needed to protect our employees until that could be done. He agreed that our policies should be reflected in the next Personnel Policy revision and that we should work with the Board of Selectmen, the Town Administrator, and Town Counsel to that end.

3. We are an elected Board and consequently have full authority to manage our own department. (This also doesn't conform to the Personnel Policy as currently written and some mention of the role of elected Boards other than the BOS could be included.)

4. The Treasurer has no authority to declare a payment illegal. The Treasurer's

role is to execute the payroll once it has been approved by Board of Selectmen.

Only the Town Accountant and the Board of Selectmen have the authority to refuse payment of any amount presented on an expenditure warrant or a payroll warrant.

The payment sequence goes as follows:

- Employee time sheets are approved by departmental Supervisor (eg., Library Director)
- Treasurer prepares a draft payroll and conveys to the Accountant for inclusion on a Payroll Warrant.
- The Accountant creates all warrants after removing any payments deemed illegal.
- The Board of Selectmen approve and sign the warrant also after determining all payments to be appropriate and legal. They are the final arbiters.
- The Treasurer then executes the finalized payroll and makes the payments or orders them to be made by the Town's payroll company.

General to all Town employees:

Are benefited employees currently paid if circumstances force the Selectmen to declare the Town Hall closed due to inclement weather or other unforeseen events? Is this stipulated in the current by-laws? What formula is used to calculate their pay? Is it stipulated in the by-laws?

What about half-days before holidays?