

APPROVED

**Board of Selectmen
22 February 2013
Minutes**

4:00 pm - Chairman Rachel Hatch called the meeting to order. Present were Chairman Hatch, Selectmen Ralph Lavin and Brett Currier and Clerk Lois Dionne.

4:02 pm – Selectman Lavin moved to enter into Non-Public Session per RSA 91-A:3, II(a) - Dismissal, promotion or setting compensation for public employees or the investigation of any charges against him, unless the employee affected has a right to a meeting or requests that the meeting be open, in which case the request shall be granted. Selectman Currier seconded. Motion passed 3-0. – Chairman Hatch-yes, Selectman Lavin-yes, Selectman Currier-yes.

The Selectmen discussed a personnel issue.

5:01 pm – Selectman Lavin moved to come out of Non-Public Session. Selectman Currier seconded. Motion passed 3-0. – Chairman Hatch-yes, Selectman Lavin-yes, Selectman Currier-yes.

5:01 pm – Selectman Lavin moved to enter into Non-Public Session per RSA 91-A:3, II(a) - Dismissal, promotion or setting compensation for public employees or the investigation of any charges against him, unless the employee affected has a right to a meeting or requests that the meeting be open, in which case the request shall be granted. Selectman Currier seconded. Motion passed 3-0. – Chairman Hatch-yes, Selectman Lavin-yes, Selectman Currier-yes.

Recycling Manager Justin Leavitt joined the meeting. He was told that the reason for the meeting was to discuss the activity on the computer that had been removed from the recycling center. The meeting was posted as a non-public meeting, but Justin asked that it be a public meeting. His request was granted.

5:03 pm – Selectman Currier moved to come out of Non-Public Session. Selectman Lavin seconded. Motion passed 3-0, and Lois went to get the recorder to record the meeting.

Ella Jo Regan, Betty Ann Abbott, Deb Chase, John Funk, Tom Scribner and Lanie Rosato joined the meeting.

Chairman Hatch told Justin that the reason for the meeting was very disturbing, he knew and could understand why. She said when she had gone back and reviewed the minutes, Justin had indicated that he is the only user on the computer. Justin said that is right, but if Dave had done his research further, he would have seen there were two users, not just one. He said when you fire the computer up, it asked which user, assistant manager or him. Chairman Hatch asked if he was alleging that --Justin interrupted to say he wasn't alleging anything, he is only saying that when he is at there on the property he is the only one that uses that unit unless he has Ron doing research for him because he is busy doing something else, which isn't that often.

Chairman Hatch said a lot of the websites that were accessed are past hours of operation, which indicates that there was someone at the facility after hours up until 11:30 or 12:00 at night accessing totally inappropriate sites. She said what disturbs her is that Justin had indicated that he was the only one. She read from the minutes of April 30th -- "Justin replied that he is the only one that uses the computer". Justin said he did say that, and added that when he is on the property he is the only one who uses it; he wasn't lying, but there were two users for the unit, and it was left on all day long. Chairman Hatch asked about the inappropriate web sites that were on the report. Justin responded that is what he is looking at now, and doesn't understand it. Justin was looking at the report, and said he doesn't understand it; it is hard to defend himself against something he doesn't understand; he needs more time, and that is what he is asking for.

Chairman Hatch said Justin had indicated to the board that he was the only user. The board had a forensic analysis done, and there are gross inappropriate sites that were accessed, so he is alleging that he needs more time to analyze. Justin said he is because he doesn't understand all the numbers, the dates, times, etc. Chairman Hatch stated that as far as she is concerned, Justin was the only user on that computer because that is what he had told her. Justin said "right, but when I take my vacations or I am not there, Ron needs to access the computer so he can enter the stuff then. I was not the only one using it; when I am on the property, I am."

Selectman Currier asked if he was correct in saying that if the dates correspond with days Justin was here, he would have no recourse then. Justin said he wasn't going to dispute that.

Chairman Hatch said she is going by what Justin had told them, that he was the only user of that computer, and it was extremely disturbing when they had looked at the report. Justin agreed that it was. Chairman Hatch said when she looks at the forensic analysis; she has no tolerance for those web sites. Justin replied that he doesn't blame her. Chairman Hatch said Justin had indicated that he needed more time, and asked the board allow him more time to analyze the forensics, but she wanted to put him administrative leave until this is straightened out. She said when you look at the websites accessed, he would understand why she is recommending he be put on administrative leave. She added that if somebody had hung him out to dry and tried to frame him, it would all come

out in the wash, but until now, he had indicated to the board that he was the one, and what they had seen is extremely disturbing. Justin agreed. Chairman Hatch asked the board to allow her to put Justin on administrative leave until he could come back and explain why the websites were accessed, and if wasn't him, she wanted to know who it was because it is a blatant violation of town policy on internet use, and is disgusting. She asked permission to put him on administrative leave; she said she wanted names. Selectman Lavin agreed; Selectman Currier said he would like to go into non-public, it could be just the board, and discuss some of the further issues before making a final decision on where this ends tonight. Chairman Hatch said her goal is to have Justin come back to the board and, hopefully, come up with an explanation and names because somebody has to pay for what they did accessing those websites. Justin suggested that the Board talk with the Town Administrator, because he has had issues numerous times with the system when it was first installed, and a couple of times afterwards with inappropriate items coming through. He said Dave had come over and checked it, and it was found out that all the protections and firewalls hadn't been set at the height they should have been. Chairman Hatch said they didn't have the luxury of talking with Tim because he is out on disability. Justin said so the one person that could help him, they weren't even going to attempt to talk to. Chairman Hatch said Tim might be back on March 11th. Justin said that is a long time to be on administrative leave with no pay. Betty Ann Abbott asked if it was with no pay. Selectman Currier said as far as he was concerned, it is. Chairman Hatch asked Selectman Lavin what he thought. Chairman Hatch said they couldn't call Tim; he is out on disability. Justin said so the one person he has backup on, he can't utilize. Chairman Hatch asked if he Dave Beaudry as a backup. Justin said he could call him, but couldn't do that until Monday.

Chairman Hatch said someone has to answer to this because it is so grossly a violation of Town policy, not to mention ethical and borderline illegal. She said Tim couldn't help him, but if he felt Dave Beaudry could help him to give him a call; she would even be willing for the Town to pay for it to get it cleared up.

A member of the public wanted to speak, and was told that this is not for public comment or input; it is a public meeting with Justin. She told Justin they would give him the latitude and any resources he needed were his, but they want answers.

Justin said he was trying to figure out what the numbers, times and dates on the report mean. Chairman Hatch said Dave would be a good resource for him

Selectman Currier said the facility is open tomorrow, and they needed to get the keys to the facility. Justin replied that Ron, Matt and all the guys had keys.

Chairman Hatch said she hoped that when Justin took a look at the report he would be as disturbed as they are. Justin said that just breezing one page he was disgusted with it.

Selectman Lavin informed the board that he would be leaving tomorrow for a week. Selectman Currier said as soon as they are done with the public, he would like to go into non-public before they adjourn. Chairman Hatch asked if Selectman Lavin would be back for the March 4th Board of Selectmen meeting. He replied that he would be. Chairman Hatch told Justin that if he made leeway over the next week, he could call Lois, and she (Chairman Hatch) would entertain meeting with him.

Selectman Currier said he would like to go into non-public to discuss the administrative leave, and whether it would be paid or not paid.

6:30 pm -Selectman Currier moved to enter into Non-Public Session per RSA 91-A:3, II(a) - Dismissal, promotion or setting compensation for public employees or the investigation of any charges against him, unless the employee affected has a right to a meeting or requests that the meeting be open, in which case the request shall be granted. Selectman Lavin seconded. Motion passed 3-0.

Before they had a chance to go into non-public session, Justin asked for a copy of the tape of the minutes. Lois was told she had five days to get it to him. Justin asked if Dave was the one who had done the report. Chairman Hatch replied that he was, and that was the reason she suggested Justin contact him. She said Justin could also get copies of the minutes she had referred to tonight. Justin also requested a copy of his personnel folder. Justin asked if for some reason this takes longer, if Tim is out permanently, is it an administrative leave, or what. Chairman Hatch responded that she had not heard from Tim since he went out; he went out on short-term disability and is slated to come back Monday, March 11th, but we haven't heard yet. Justin asked if he could try to contact Tim. Chairman Hatch said that was up to him. Selectman Lavin said it was not to be on behalf of the Board of Selectmen.

As members of the public were leaving so the selectmen could enter non-public session, John Funk made comments to Chairman Hatch that it isn't appropriate to put the burden of proof on Justin to prove who did it. Chairman Hatch said she had been told he was the only one who used the computer. Mr. Funk said Justin had just told them contrary information. Mr. Funk said he didn't know what the information was, but if Justin could demonstrate something that indicates his noncomplicity, they couldn't ask him to prove it; he doesn't have the resources to do it; that is their job. Betty Ann Abbott stated that there is no password on the computer, and anybody could go on it.

The Selectmen entered non-public session.

The Selectman discussed the situation about Justin.

6:45 pm – Selectman Currier moved to come out of Non-Public Session. Selectman Lavin seconded. Motion passed 3-0. – Chairman Hatch-yes, Selectman Lavin-yes, Selectman Currier-yes.

Justin and members of the public rejoined the meeting.

Chairman Hatch informed Justin that they would revisit the issue on Monday, March 4th. In the meantime he would be on paid administrative leave. He is not to be working. Justin said he would have to turn in his keys to the facility in the meantime. Chief Collins would go with him to get his keys. Justin is scheduled to meet with the Selectmen on Monday, March 4th at 6:00 pm.

6:47 pm – MOTION – Selectman Currier moved to adjourn the meeting. Selectman Lavin seconded. Motion passed 3-0.

Respectfully submitted,

Lois Dionne
Recording Clerk